

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-12577 JLT

CRAIG GOULET, *
Plaintiff *
*
v. *
*
NEW PENN MOTOR EXPRESS, INC., and *
TEAMSTERS LOCAL 25, *
INTERNATIONAL BROTHERHOOD OF *
TEAMSTERS, *
Defendants *


**PLAINTIFF'S APPENDIX TO HIS OPPOSITIONS TO
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

1. Goulet Deposition
2. Goulet Errata Sheet
3. Dubiel Deposition
4. APA Decision
5. Carnes Deposition
6. Harrington Deposition
7. Canton Seniority List
8. Francey Deposition
9. Teamsters & New Penn Agreement
10. Francey's Preference List
11. Teamsters Deposition

12. McLaughlin Fax
13. Cashman Letter to Schmidt
14. New Penn Call List
15. New Penn Answers to Interrogatories
16. Goulet Grievance
17. Cashman Letter to Zaccaria
18. Goulet Letter to Harrington
19. Southern New England Joint Area Committee Pre-Hearing Information
20. Harrington Submission
21. Hearing Transcript
22. New Penn Decision
23. National Master Freight Agreement
24. Affidavit of Burton Trebour
25. Decision of Social Security Administration, dated August 21, 1995.
26. Consultative Examination Report of Stephan Simonian, M.D., dated May 2, 2003.

Craig Goulet

By his attorney



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Dated: February 11, 2006

Certificate of Service

I, Scott A. Lathrop, hereby certify that I have served the foregoing Appendix on the defendants by mailing this day a copy to the last known address of their Attorneys of Record.

A handwritten signature in cursive script that reads "Scott A. Lathrop".

Scott A. Lathrop

Dated: February 11, 2006

1-107

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

* * * * *
CRAIG GOULET,
Plaintiff,
- vs. - C.A. # 04-12577-JLT
NEW PENN MOTOR EXPRESS,
and
TEAMSTERS LOCAL 25
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS,
Defendant.
* * * * *

DEPOSITION of CRAIG GOULET, a witness called by and
on behalf of the defendants, pursuant to the provisions of
the Massachusetts Rules of Civil Procedure, before Michael
C. Janey, a Professional Reporter and Notary Public in and
for the Commonwealth of Massachusetts, at the offices of
Dwyer, Duddy and Facklam, P.C., Two Center Plaza, Suite
430, Boston, Massachusetts, 02108 on Tuesday, October 4,
2005, commencing at 10:05 a.m.

APPEARANCES:

Scott A. Lathrop, Esquire, law office of SCOTT A. LATHROP, 122 Old Ayer Road, Groton, Massachusetts, 01450, (978) 448-8234; on behalf of the Plaintiff.

Kathleen A. Pennini, Esquire, law offices of DWYER, DUDDY AND FACKLAM, Two Center Plaza, Suite 430, Boston, Massachusetts, 02108, (617) 723-9777; on behalf of the Defendant, International Brotherhood of Teamsters, Local 25.

Carl H. Gluek, Esquire, law office of FRANTZ WARD, LLP, 2500 Key Center, 127 Public Square, Cleveland, Ohio, 44114-1230, (216) 515-1660; on behalf of Defendant, New Penn Motor Express.

Also Present: Mark Harrington

JANEY ASSOCIATES

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JANEY ASSOCIATES

1 S T I P U L A T I O N S

2 It is hereby stipulated and agreed by and
3 between counsel for the respective parties that the
4 reading and signing of the deposition by the witness
5 is not waived, but that the deposition may be signed
6 under the pains and penalties of perjury within
7 forty-five days of receipt of the transcript.

8 It is further stipulated and agreed that
9 all objections, except as to the form of the
10 questions, and motions to strike shall be reserved
11 until the time of hearing or trial in this matter.

12 CRAIG GOULET, having duly affirmed that
13 his testimony would be the truth, the whole truth, and
14 nothing but the truth, testified as follows in answer
15 to direct interrogatories:

16 MS. PENNINI: Before we begin, do we
17 stipulate to the usual stipulations, objections except
18 as to form reserved until trial?

19 MR. LATHROP: And motions to strike.

20 MS. PENNINI: And motions to strike, I m
21 sorry. And regarding the signing of the deposition?

22 MR. LATHROP: Mr. Goulet will read it and
23 sign it, and if we can waive the requirement that he
24 sign it in front of a notary and still simply sign it

 JANEY ASSOCIATES

1 under the pains and penalties of perjury, that would
2 be acceptable to me.

3 MS. PENNINI: That s fine with me.

4 MR. GLUEK: That s fine.

5 MS. PENNINI: Will that be thirty days from
6 receipt of the deposition?

7 MR. LATHROP: If we want to do it by
8 agreement, let s make it just forty-five.

9 MS. PENNINI: Okay. Forty-five days is
10 fine.

11 MR. GLUEK: We don t have a motion date
12 pending, correct?

13 MS. PENNINI: I m sorry.

14 MR. GLUEK: There is no motion date
15 pending.

16 MR. LATHROP: I don t believe so. I
17 believe all we have is November 1st.

18 MR. GLUEK: Right. That is our pretrial,
19 so conceivably this judge, he could schedule a very
20 short time line.

21 MR. LATHROP: The flip side is he gave us
22 until the end of the month to complete discovery
23 anyway, so I don t think he could -- I mean, I would
24 support you and say, this is too short a deadline, we

JANEY ASSOCIATES

1 don t even have the transcript back yet if he tries to
2 do it.

3 MR. GLUEK: Okay. That s fine.

4 MS. PENNINI: I was under the impression
5 after the first scheduling conference that this is
6 more of a status conference to see whether discovery
7 has been completed before setting any additional
8 deadlines.

9 MR. LATHROP: I m sure that is the case.
10 Unlike other pretrial conferences in Massachusetts
11 where you establish in advance all the motion
12 deadlines and so forth.

13 MS. PENNINI: Right, because we only solely
14 discussed discovery at the first scheduling
15 conference.

16 MR. LATHROP: If you are concerned about
17 that I will support you in the notion that an early
18 cut off time is unfair to you.

19 MR. GLUEK: Okay

20 EXAMINATION

21 BY MS. PENNINI:

22 Q. Could you please state your name?

23 A. Craig Steven Goulet, Sr.

24 Q. Could you spell your last name, please?

JANEY ASSOCIATES

1 A. G-O-U-L-E-T.

2 Q. And where do you currently live?

3 A. 305 Cox Street, Hudson, Massachusetts.

4 Q. Are you currently employed?

5 A. No.

6 Q. Are you currently a member of Teamsters Local

7 25?

8 A. Yes, I am.

9 Q. How long have you been a member of Teamsters
10 Local 25?

11 A. Since 1987.

12 Q. Were you ever a member of any other Teamsters
13 local?

14 A. Yes, I was.

15 Q. And what local?

16 A. Local 170.

17 Q. When were you a member of Local 170?

18 A. 1979.

19 Q. Until what time?

20 A. Until 1987.

21 Q. What employers did you work for while a member
22 of Local 170?

23 A. I worked for McLean Trucking.

24 Q. And where is that located?

JANEY ASSOCIATES

1 A. It was on Route 20 in Shrewsbury.

2 Q. What did you do at McLean Trucking?

3 A. I worked on the loading dock.

4 Q. How long did you work there?

5 A. Off and on until they went out of business
6 sometime in the early 80's.

7 Q. So beginning in 79?

8 A. Um-hum.

9 Q. Anyplace else?

10 A. Pilot Freight Carriers.

11 Q. And when did you work there?

12 A. From 1979 until they went out of business.

13 Q. So you ended your employment there because they
14 went out of business?

15 A. Yes.

16 Q. Anyplace else?

17 A. Roadway Express.

18 Q. And when did you work there?

19 A. From 1979 until approximately 1984.

20 Q. Did you work for McLean, Pilot, and Roadway all
21 at the loading dock?

22 A. Yes.

23 Q. And why did you stop working for Roadway
24 Express?

JANEY ASSOCIATES

1 A. I made the list with Sanborns Motor Express.

2 Q. I m sorry, could you repeat that?

3 A. Sanborns. I made the list, the seniority list
4 with Sanborns Motor Express.

5 Q. And how is that related to Roadway?

6 A. Separate company.

7 Q. Did you work with these companies at the same
8 time or one after the other?

9 A. No, I worked with them all at the same time.

10 Q. And you said you made the seniority list with
11 Sanborn?

12 A. Yes.

13 Q. And how long did you work for Sanborn?

14 A. I worked for Sanborns from 1984 up until the
15 time they were bought out by APA Transport.

16 Q. And when was that?

17 A. October, 1986.

18 Q. What facility did you work for for Sanborn?

19 A. Out of their Wrentham, Mass facility.

20 Q. Did you work at Sanborn on the loading dock, as
21 well?

22 A. I was a -- I worked the loading dock and I drove
23 for them.

24 Q. Did you continue to work in Wrentham when you

JANEY ASSOCIATES

1 began working for Sanborn Trucking -- I mean, when

2 Sanborn was bought out by APA?

3 A. No, I went to work at the APA Canton facility.

4 Q. When did you begin work at APA in Canton?

5 A. October of 1986.

6 Q. How long did you work for APA?

7 A. I worked for them from October, 1986 until March

8 11th, 1987.

9 Q. And what happened on March 11th, 1987?

10 A. I was involved in a industrial accident.

11 Q. Could you explain this industrial accident for
12 me, please?

13 A. I was loading a -- unloading a truck with a
14 forklift and the truck pulled away from the loading
15 dock.

16 Q. How did that result in injury to you?

17 A. Myself and the forklift both went off the
18 loading dock and I ended with a herniated disc in my
19 neck, lower back, torn rotator cuff in my shoulder,
20 torn ligament in my knee.

21 Q. Did you go to the hospital on March 11th
22 following this injury?

23 A. Yes, I did.

24 Q. And what hospital?

JANEY ASSOCIATES

1 A. Goddard Memorial Hospital.

2 Q. Where is Goddard Memorial?

3 A. Stoughton.

4 Q. Had you previously been terminated from your
5 employment at APA by letter on February 25th, 1987?

6 A. Yes.

7 Q. And what precipitated that termination?

8 A. I think there was an argument between me and the
9 night boss, a disagreement.

10 Q. Do you recall the date on which this argument
11 with the night boss happened?

12 A. No, not offhand I don t.

13 Q. Was it on February 25th?

14 A. It could ve been.

15 Q. Could it have been before February 25th?

16 A. I don t recall.

17 Q. Had you ever received any written warnings from
18 the terminal manager at APA prior to February 25th?

19 A. Yes, I had.

20 Q. And for what reason were you given a written
21 warning?

22 A. Misloading freight, I think.

23 Q. Do you recall if there were any other

24 disciplinary issues while you were working for APA?

JANEY ASSOCIATES

1 A. Yeah, I think there was.

2 Q. Could you tell me what those are?

3 A. Not offhand, no.

4 Q. Do you recall approximately when they occurred?

5 A. Sometime between October of 86 and March 11th
6 of 87.

7 Q. Do you recall how many disciplinary issues you
8 had during that time?

9 A. I do not.

10 Q. Do you recall whether they were written warnings
11 or suspensions?

12 A. There was a written warning. May have been
13 several written warnings and a discharge.

14 Q. And was the discharge you are speaking of the
15 one on February 25th?

16 A. Yes.

17 Q. Do you recall how your termination of February
18 25th was resolved?

19 A. Yes.

20 Q. How was it resolved?

21 A. It went to the Joint Area Committee.

22 Q. And what was the result?

23 A. I was put back to work.

24 Q. When did you come back to work after the

JANEY ASSOCIATES

1 February 25th termination?

2 A. I m not sure offhand.

3 Q. Do you recall whether it was in February or
4 March?

5 A. I believe it was March.

6 Q. Do you recall if it was more than a week prior
7 to March 11th?

8 A. No, as I recall I think it was March 11th.

9 Q. So you think you returned back to work on the
10 day you were injured?

11 A. Yes.

12 Q. What time of the day was the accident with the
13 forklift during the unloading of a truck?

14 A. It was approximately 7:30 at night.

15 Q. And you said after that you went to the Goddard
16 Memorial Hospital in Stoughton?

17 A. Yes.

18 Q. Were you kept at the hospital?

19 A. No.

20 Q. What sort of procedures did they do when you
21 were at the hospital during that night?

22 A. They took an x-ray of my leg. I believe they
23 took an x-ray of my neck. Told me to follow up with
24 my doctor.

JANEY ASSOCIATES

1 Q. Did you inform APA of what had occurred at the
2 hospital?

3 A. Yes.

4 Q. And what did they tell you? Did you return back
5 to work on March 12th?

6 A. No.

7 Q. And why didn't you return back to work on March
8 12th?

9 A. I went out on an industrial accident, Workman's
10 Comp.

11 Q. Had you informed APA that you were unable to
12 return to work on the 12th?

13 A. Yes.

14 Q. Were you soon thereafter terminated for the
15 events of March 11th, 1987?

16 A. Yes.

17 Q. And do you recall when you were terminated?

18 A. March 12th.

19 Q. Do you know what sort of Worker's Compensation
20 benefits you received?

21 A. Partial disability.

22 Q. And do you recall why you received partial
23 disability?

24 A. I don't think I understand the question.

JANEY ASSOCIATES

1 Q. Do you understand the difference between partial

2 disability benefits and full disability benefits?

3 A. Yes.

4 Q. And starting soon after March 12th you began to

5 receive partial disability benefits?

6 A. Yes.

7 Q. Do you know why you received partial disability

8 benefits as opposed to full disability benefits?

9 A. That s what the judge ordered.

10 Q. And what judge was this?

11 A. Judge Scannell.

12 Q. When was that ordered by Judge Scannell?

13 A. In June, 1987.

14 Q. Is Judge Scannell an administrative law judge

15 for the Department of Industrial Accident?

16 A. She was at the time, yes.

17 Q. Did you file a grievance as a result of your

18 termination on March 12th?

19 A. The union hall filed a complaint. My business

20 agent at the time filed a complaint.

21 Q. And who was the business agent?

22 A. George Cashman.

23 Q. Do you recall when this complaint was heard?

24 A. Yes.

JANEY ASSOCIATES

1 Q. When was that?

2 A. October 16th, 2001.

3 Q. Could you tell me why there was a lapse of 14
4 years between the time the complaint was filed and the
5 date of the hearing in this matter?

6 A. Because I was on Workman s Compensation, and the
7 rules of procedure with the grievance committee
8 stipulated that they wouldn t hear the case as long as
9 it was pending in another venue.

10 Q. Following the order of Judge Scannell in 1987,
11 did you appeal her granting of partial disability
12 benefits?

13 A. Yes, I believe I did.

14 Q. What was the result of that appeal?

15 A. I m not quite sure.

16 Q. Did you continue to receive partial disability
17 benefits?

18 A. Yes, I did.

19 Q. Do you recall whether there are any additional
20 appeals besides the initial appeal?

21 MR. LATHROP: You are speaking about the
22 industrial accident?

23 MS. PENNINI: I m sorry, I m speaking about
24 the industrial accident appeal.

JANEY ASSOCIATES

1 THE WITNESS: Yes, I believe there was.

2 BY MS. PENNINI:

3 Q. Do you recall how many appeals there were?

4 A. No.

5 Q. Were all the appeals filed by you or your
6 attorney?

7 A. My attorney.

8 Q. And when were these appeals finally resolved
9 with a final decision, do you recall?

10 A. No.

11 Q. Were there numerous appeals between 1987 and
12 2001?

13 A. I don't know how many appeals there were, maybe
14 one.

15 Q. And that was heard before 2001?

16 A. Yes.

17 Q. While you were receiving partial Worker's
18 Compensation benefits, did you hold any other
19 employment?

20 A. No.

21 Q. Did you look for additional employment between
22 March 11th, 1987 and October of 2001?

23 A. No.

24 Q. Did you seek any light duty work of any sort?

JANEY ASSOCIATES

1 A. Yes.

2 Q. And where did you seek light duty work?

3 A. With APA.

4 Q. And what was their response, APA s response?

5 A. APA s response was that I was discharged. I was
6 a discharged employee.

7 Q. When did you seek light duty work with APA?

8 A. Sometime in early 1991 or 2 maybe.

9 Q. Did you seek any light duty employment with any
10 other company?

11 A. Nope.

12 Q. In 1991-1992, had you received any documentation
13 from any doctor concerning your ability to return to
14 work?

15 A. I don t recall.

16 Q. Between 1987 and 1991, were there any
17 restrictions concerning your ability to work placed on
18 you by your doctor?

19 A. Yes.

20 Q. And what were those restrictions?

21 A. That I was unable to work.

22 Q. Can you be anymore specific?

23 A. No, not offhand I can t.

24 Q. Did you have any restrictions concerning the

JANEY ASSOCIATES

1 amount that you could lift?

2 A. Yes.

3 Q. And what was that restriction?

4 A. 35 pounds.

5 Q. Do you recall any other restrictions?

6 A. No, I don t.

7 Q. Do you recall if there were more restrictions
8 than you could not lift more than 35 pounds?

9 A. I don t recall offhand, no.

10 Q. I m sorry, you don t recall what the other
11 restrictions were or you don t recall whether there
12 was more than that one restriction?

13 A. I don t recall at all.

14 Q. So you do not recall whether there was -- I m
15 just trying to understand you. You do not recall if
16 there were any other restrictions?

17 A. Yeah, I had a lot of doctor s reports.

18 Q. Did you continue to receive health benefits
19 while you were on Worker s Compensation leave?

20 A. I did up until a point, up until sometime.

21 Q. And when was that time?

22 A. It may have been a year after I got hurt.

23 Q. Do you not recall the exact date?

24 A. I can t be sure. The health and welfare was

JANEY ASSOCIATES

1 paid on my behalf for a period of one year, so I was
2 covered for a year and then possibly six months after
3 that.

4 Q. And after that time did you not have any health
5 benefits?

6 A. I did not.

7 Q. Did you receive any compensation in addition to
8 your partial disability benefits between the years of
9 1987 and 2001?

10 A. Yes.

11 Q. What form of compensation did you receive?

12 A. Social Security Disability.

13 Q. And when did you receive that, what years?

14 A. I think it was 1995.

15 Q. You began to receive it in 95 or you only
16 received it in 1995?

17 A. No, I began to receive it in 1995.

18 Q. Did you receive any other compensation besides
19 Social Security?

20 A. No.

21 Q. So just to be clear, between 1987 and 2001 the
22 only compensation that you received was from Social
23 Security Disability benefits and Worker s Comp partial
24 disability benefits?

JANEY ASSOCIATES

1 A. Yes.

2 Q. Did you keep in contact with anyone at Teamsters
3 Local 25 while you were out on Worker s Compensation
4 leave?

5 A. Yes.

6 Q. With whom did you keep in contact?

7 A. I spoke with George Cashman over the years.

8 Q. Anybody else?

9 A. Mark Harrington.

10 Q. Do you recall what years you spoke with Mark
11 Harrington?

12 A. Sometime in 2001.

13 Q. So the first time you spoke with Mark Harrington
14 was about 2001?

15 A. Yeah.

16 Q. Do you recall approximately when you would speak
17 to George Cashman?

18 A. No, I don t remember approximately when. Just
19 there was conversation over the years. We talked.

20 Q. How often did you speak with Mr. Cashman?

21 A. About every few months.

22 Q. Would you stop by the union hall to speak with
23 Mr. Cashman?

24 A. I did.

JANEY ASSOCIATES

1 Q. Did you keep in contact with him through any
2 other means?

3 A. No.

4 Q. Would you ever telephone Mr. Cashman?

5 A. Yes.

6 Q. Besides George Cashman and Mark Harrington, did
7 you keep in contact with anyone else at Local 25?

8 A. No.

9 Q. How often would you go to the union hall during
10 that time?

11 MR. LATHROP: I m sorry, what time frame
12 are we talking about here?

13 MS. PENNINI: I m sorry, between 1987 and
14 2001.

15 THE WITNESS: I don t recall.

16 BY MS. PENNINI:

17 Q. But occasionally you would go to the union hall?

18 A. Occasionally, yes. I used to stop by to pay my
19 dues, something like that.

20 Q. Were you ever a steward for a Teamsters local?

21 A. No.

22 Q. What sorts of discussions would you have with
23 Mr. Cashman?

24 A. I don t know offhand.

JANEY ASSOCIATES

1 Q. You don't recall any general topics of
2 conversations?

3 A. Nope.

4 Q. Would you ever discuss whether you would be
5 returning back to work with Mr. Cashman?

6 A. Nope.

7 Q. Would you discuss what was going on with
8 different employers over at Local 25 with Mr. Cashman?

9 A. Yeah, I think maybe I might've attended some
10 meetings. You know, general union meetings.

11 Q. Do you recall anything else concerning your
12 correspondence or interaction with Mr. Cashman between
13 1987 and 2001?

14 A. No.

15 Q. And you said you began to speak or see
16 Mr. Harrington in 2001?

17 A. Yes.

18 Q. Do you recall why you began to speak with
19 Mr. Harrington?

20 A. I had exhausted all my partial disability
21 benefits.

22 Q. Okay. And how is that related to
23 Mr. Harrington?

24 A. Well in order to have my discharge case heard at
JANEY ASSOCIATES

1 the panel, I needed to discuss it with Mr. Harrington
2 who was the business agent at that time.

3 Q. And you said you had exhausted your partial
4 disability benefits, could you explain to me what you
5 mean by that?

6 A. My benefits came to an end.

7 Q. Is that because you had received a certain
8 number of weeks of benefits?

9 A. Yes.

10 Q. And you said you contacted Mr. Harrington
11 because you wanted your grievance to be heard?

12 A. Yes.

13 Q. Was your grievance subsequently heard?

14 A. Yes, it was.

15 Q. And what s the date of that?

16 A. October 16th, 2001.

17 Q. Where was this grievance heard?

18 A. At the union hall.

19 Q. Do you recall who it was heard by?

20 A. It was heard by the committee.

21 Q. And what committee was this?

22 A. It was the Southern New England Joint Area
23 Committee.

24 Q. And you said it was held at the union hall,

JANEY ASSOCIATES

1 which union hall are you referring to?

2 A. At the Teamsters Local 25.

3 Q. Do you recall what the result of this hearing
4 was?

5 A. Yes.

6 Q. And what was the result?

7 A. My seniority was reinstated.

8 Q. Do you recall anything else concerning the
9 result of the Joint Area Committee grievance decision?

10 A. No.

11 MS. PENNINI: Can I just have one second?

12 (A brief recess was taken)

13 MS. PENNINI: Could I have this marked as
14 an Exhibit, please?

15 (The document above-referred
16 to was marked Deposition
17 Exhibit No. 1 for Identification)

18 BY MS. PENNINI:

19 Q. If you could please look at deposition Exhibit
20 1, Mr. Goulet?

21 A. Yeah.

22 Q. Have you seen this document before?

23 A. Yes, I have.

24 Q. Could you tell me what this document is?

JANEY ASSOCIATES

1 A. It s the decision from the Southern New England
2 Committee.

3 Q. When did you first see this decision?

4 A. When it was mailed to me.

5 Q. And do you recall approximately when you
6 received it?

7 A. Yeah, maybe two weeks after the hearing.

8 Q. Could you explain to me what the decision was?

9 MR. LATHROP: Objection.

10 THE WITNESS: The decision was, put me back
11 on the seniority list and it states that upon me
12 giving the company documentation of my ability to work
13 to unrestricted duties, I had to serve a 10-day
14 suspension.

15 BY MS. PENNINI:

16 Q. Did you ever submit any documentation to APA
17 regarding your ability to return to unrestricted
18 duties?

19 A. No.

20 Q. Did you ever serve a 10-day suspension at APA?

21 A. No.

22 Q. Did you understand this decision to immediately
23 reinstate you onto the seniority list for APA?

24 A. Yes, I did.

JANEY ASSOCIATES

1 Q. Did you --

2 A. I received a phone call by Bill Carnes --

3 Q. I m sorry, I m asking you a question.

4 MR. LATHROP: But nonetheless, if he needs
5 to expand upon his answer he has a right to do that.

6 MS. PENNINI: Well I will allow you to do
7 that in one second. I m sorry, I was in the middle of
8 trying to get a question out.

9 BY MS. PENNINI:

10 Q. So you said that you believed your seniority was
11 immediately reinstated and you should have been placed
12 on the seniority list immediately upon the decision of
13 the New England Joint Area Grievance Committee?

14 A. I was put back on the seniority list
15 immediately.

16 Q. How do you know that you were immediately put
17 back on the seniority list?

18 A. I received a phone call from Bill Carnes --

19 Q. And what did Bill --

20 A. -- that afternoon, and also from Mr. Harrington.

21 Q. I m sorry, what afternoon?

22 A. The afternoon they heard the case on October
23 16th, congratulating me and telling me that I won.

24 Q. Did you receive one phone call or two separate

JANEY ASSOCIATES

1 phone calls?

2 A. Two separate phone calls.

3 Q. Do you recall what Mr. Carnes had said during
4 his phone call?

5 A. Congratulations, you won your case.

6 Q. Did he explain to you what the decision said?

7 A. Yes.

8 Q. And what did he say?

9 A. He said, You have to serve a 10-day suspension
10 before you can go back to work.

11 Q. Did Mr. Carnes tell you that you had been placed
12 back on the seniority list?

13 A. Yes, that was my understanding.

14 Q. Did he say that?

15 A. I believe he did.

16 Q. You don t recall whether he said precisely, You
17 have been returned to the seniority list at APA Canton
18 facility. ?

19 A. Precisely, I do not know.

20 Q. And you said you also received a call from
21 Mr. Harrington?

22 A. Yes.

23 Q. Could you tell me what Mr. Harrington said to
24 you on the phone that day?

JANEY ASSOCIATES

1 A. Basically, the same. You know, it had the same
2 context. It was, You won your case.
3 Congratulations, you won your case.

4 Q. Did Mr. Harrington say anything else?

5 A. Nope.

6 Q. Did he tell you you would have to serve a 10-day
7 suspension?

8 A. Yes, I believe he did.

9 Q. Did he tell you you were back on the seniority
10 list at APA?

11 A. Yes, I believe he did.

12 Q. Do you recall whether he said, You re back on
13 the seniority list. ?

14 A. No, I don t recall.

15 Q. Did you ever work for APA after October 16th,
16 2001?

17 A. No.

18 Q. Did you ever see a seniority list for the APA
19 terminal in Canton, Massachusetts with your name on
20 the seniority list?

21 A. Yes.

22 Q. Were you working at APA at the time that it
23 ceased operating?

24 A. No.

JANEY ASSOCIATES

1 Q. Do you know when APA ceased its operations?

2 A. Sometime in February of 2002.

3 Q. And how did you learn that APA was closing its
4 operations?

5 A. I had spoke with the steward.

6 Q. Did the steward call you to inform you?

7 A. Yes, he did.

8 Q. And who was the steward?

9 A. Doug Francie.

10 Q. Do you recall when he called you?

11 A. No. Approximately -- there may have been
12 several phone calls. One initially is the word, Get
13 out, that the company was closing.

14 Q. And Francie called you to let you know the
15 company was closing?

16 A. I think probably I called him initially.

17 Q. How did you get word that APA was closing?

18 A. Someone called me.

19 Q. Do you recall who called you?

20 A. My sister-in-law.

21 Q. And how did your sister-in-law know that APA was
22 closing?

23 A. She worked for a company and had spoke with
24 another truck driver.

JANEY ASSOCIATES

1 Q. Your sister-in-law worked for APA, is that what

2 you said?

3 A. No, she worked for another company.

4 Q. What company did she work for?

5 A. Vincent Metal Goods.

6 Q. Vincent Metal Goods, is that what you said?

7 A. Yeah, um-hum.

8 Q. And she became aware that APA was closing?

9 A. Yes.

10 Q. And could I have your sister-in-law s name?

11 A. Dawn.

12 Q. And her last name?

13 A. Goulet.

14 Q. Is it D-A-W-N?

15 A. Yes.

16 Q. And Goulet as you previously spelled it?

17 A. Um-hum.

18 Q. Where is Vincent Metal Goods located?

19 A. I believe they re in Fort Devins now at Devins.

20 They were in Marlboro at the time.

21 Q. So after your sister-in-law informed you that

22 APA was closing you called Doug Francie?

23 A. Yes.

24 Q. How did you know to contact Doug Francie?

JANEY ASSOCIATES

1 A. Doug Francie was the union steward.

2 Q. And where was he the union steward for?

3 A. For APA, at the Canton facility.

4 Q. How did you know that he was the APA union
5 steward at the Canton facility?

6 A. As I said, I had been to union meetings and kept
7 in contact with the -- you know, other workers.

8 Q. Other workers at APA?

9 A. Yes.

10 Q. What other workers did you keep in contact with?

11 A. Jerry Hurley was a mechanic. I d spoke with
12 Kevin Power over the years.

13 Q. Are Jerry Hurley and Kevin Power both APA
14 workers at the Canton facility?

15 A. Yes.

16 Q. I m sorry, go on, I didn t mean to interrupt
17 you.

18 A. There was another fellow, Mike Cruz, drove a
19 truck in the Hudson area. I would see him from time
20 to time.

21 Q. Was he at the APA Canton facility as well?

22 A. Yes.

23 Q. How did you get Doug Francie s telephone number?

24 A. Oh, I had the phone number.

JANEY ASSOCIATES

1 Q. Did you call him at home?

2 A. Yes.

3 Q. How did you have his home phone number?

4 A. As I said, he was the union steward.

5 Q. Had you known Doug Francie prior to February of
6 2002?

7 A. Yes.

8 Q. And how did you know him?

9 A. I worked with him at Sanborns Motor Express.

10 Q. What did you speak with Mr. Francie about?

11 A. Well it was general conversation about the
12 company was closing.

13 Q. Did you tell Mr. Francie you had heard that the
14 company was closing?

15 A. Yes.

16 Q. Do you recall what else you said to him?

17 A. We just discussed in general the fact that the
18 company was going out of business.

19 Q. Did you ask Mr. Francie if you could be put on a
20 call list for New Penn Motor Express?

21 A. Doug Francie called me -- Doug Francie called
22 me, and I m going to say it was probably February 15th
23 or 16th, maybe the 17th.

24 Q. And what did he say to you?

JANEY ASSOCIATES

1 A. He relayed to me that there was a meeting with
2 the APA men and he wanted to know what my call list
3 preference was.

4 Q. Did he tell you whether or not you were on his
5 list of people to determine what their preference for
6 a call list facilities were?

7 A. Yes.

8 Q. He said you were on the list?

9 A. I believe that s why he called me.

10 Q. So Mr. Francie said he thought you were on the
11 Canton facility call list and, therefore, called you
12 to find out your terminal preference, is that an
13 accurate statement?

14 A. Not entirely.

15 Q. Okay.

16 A. I was on the Canton seniority list, the APA
17 Canton seniority list.

18 Q. Okay.

19 A. And he called me to ask me what my preference
20 would be as far as the New Penn call list went.

21 Q. And your conversation with Mr. Francie, when you
22 called him, do you recall what date that occurred on?

23 A. I don t offhand recall, no.

24 Q. But you believe you spoke with him on February

JANEY ASSOCIATES

1 15th or possibly the 16th or the 17th?

2 A. I m going to say it was the 17th of February.

3 Q. That you spoke with Mr. Francie?

4 A. Yes.

5 MR. GLUEK: Could you say what year it is?

6 MS. PENNINI: I m sorry.

7 BY MS. PENNINI:

8 Q. Was it February 17th of 2002?

9 A. Yes, 2002.

10 Q. Do you know for sure that it was February 17th,

11 2002?

12 A. I m pretty sure it was February 17th, 2002, yes.

13 Q. But it may have been the 16th or the 15th?

14 A. No, it was after the 16th.

15 Q. And how do you know it was after the 16th?

16 A. Because they had a meeting at the union hall and
17 he called me after the meeting.

18 Q. Do you know the date of the meeting at the union
19 hall?

20 A. February 16th.

21 Q. Did you receive any notification regarding the
22 closure of APA in the mail?

23 A. Yes.

24 Q. When did you receive this notification?

JANEY ASSOCIATES

1 A. Sometime in February of 2002.

2 Q. And by whom was this information sent?

3 A. Local 25.

4 Q. After you gave Mr. Francie your terminal
5 preference, did you ever check with Local 25 to make
6 sure that your name was on the call list for New Penn?

7 A. I made a follow up phone call, I did, to the
8 union hall, yes.

9 Q. Do you recall with whom you spoke?

10 A. Mark Harrington.

11 Q. And when was that?

12 A. Sometime in March.

13 Q. In March of what year?

14 A. 2002.

15 Q. Do you recall what you spoke about during this
16 telephone call?

17 A. Yes.

18 Q. And what was that?

19 A. With regards to the call list and what was going
20 on with the APA people and New Penn agreement.

21 Q. In February and March of 2002, had you been
22 medically cleared to return to work?

23 A. No.

24 Q. Besides your telephone conversation with Mark

JANEY ASSOCIATES

1 Harrington in March of 2002, did you have any other
2 contact with Local 25?

3 A. Yes.

4 Q. What sort of contact did you have?

5 A. When I spoke with Mr. Harrington he told me that
6 he no longer handled the men at APA, and I would have

7 to speak with Bill Carnes.

8 Q. And when did this occur?

9 A. Sometime right around March.

10 Q. March of?

11 A. 2002.

12 Q. Was this during the same conversation that you
13 spoke about previously where you asked Mr. Harrington
14 about the call list?

15 A. Yes.

16 Q. Did you have any additional contact with anyone
17 at Local 25 after --

18 A. Not that I recall.

19 MR. LATHROP: Let her finish the question.

20 BY MS. PENNINI:

21 Q. After March of 2002?

22 A. Yes.

23 Q. What contact did you have?

24 A. There were several phone calls to Bill Carnes.

JANEY ASSOCIATES

1 Q. When did these phone calls occur?

2 A. I can't be sure right offhand.

3 Q. Can you tell me, did you have any contact with
4 Mr. Carnes during the spring of 2002?

5 A. Yes.

6 Q. What sort of contact did you have with him
7 during the spring of 2002?

8 A. With regards to the agreement that they had with
9 the New Penn people.

10 Q. What did he tell you concerning the agreement
11 with the New Penn people?

12 A. He said that he was going to look into it.

13 Q. Did you only have one conversation with
14 Mr. Carnes during the spring of 2002?

15 A. No, I don't think so. There was probably two.

16 Q. Two conversations?

17 A. Yeah.

18 Q. And what did you speak about during the second
19 conversation?

20 A. Same issues.

21 Q. Did you have any contact with him during the
22 summer of 2002?

23 A. Yes.

24 Q. What did you speak about during the summer of

JANEY ASSOCIATES

1 2002?

2 A. More follow up, more of the same.

3 Q. During the summer of 2002, had you been
4 medically cleared to return to work?

5 A. No.

6 Q. Did you alert Mr. Carnes that you had not been
7 medically cleared to return to work?

8 A. No.

9 Q. Did you tell Mr. Carnes whether you had ever
10 served your 10-day suspension with APA?

11 A. No.

12 Q. And approximately how often did you speak to him
13 during the summer of 2002?

14 A. Several times. Two.

15 Q. Several times or two times?

16 A. Two times.

17 Q. Did you speak to him during the fall of 2002?

18 A. I don't recall.

19 Q. The winter of 2002?

20 A. I can't be sure.

21 Q. You are not sure whether you had any contact
22 with Mr. Carnes during the winter of 2002?

23 A. No, we had -- like I said, we had conversations
24 throughout the year. There was initial phone call,

JANEY ASSOCIATES

1 follow up phone call, subsequently I think there was a
2 third phone call in the spring of 2002, March.

3 Q. Had you been medically cleared to return to work
4 during the winter of 2002?

5 A. No.

6 Q. Had you been medically cleared to return to work
7 prior to March 1st of 2003?

8 A. No.

9 Q. And you said you spoke with Mr. Carnes in March
10 of 2003?

11 A. Yes.

12 Q. What sort of contact did you have with
13 Mr. Carnes?

14 A. I called him, it was probably March 31st, 2003
15 when the agreement expired.

16 Q. What agreement are you --

17 A. The agreement that the New Penn people had with
18 the Teamsters negotiating committee, the freight
19 industry negotiating committee and the APA operation.

20 Q. What else did you discuss during this
21 conversation?

22 A. The fact that I hadn't been called.

23 Q. And what did Mr. Carnes tell you?

24 A. He told me to send a grievance in.

JANEY ASSOCIATES

1 Q. And did you send a grievance into Mr. Carnes?

2 A. I did.

3 MS. PENNINI: Would you mark this as an
4 Exhibit, please?

5 (The document above-referred
6 to was marked Deposition

7 Exhibit No. 2 for Identification)

8 BY MS. PENNINI:

9 Q. If you could please look at deposition Exhibit
10 No. 2?

11 A. Um-hum.

12 Q. Have you seen this document before?

13 A. Yes.

14 Q. Were you the author of this document?

15 A. Yes.

16 Q. Could you please tell me what this document is?

17 A. It s a grievance.

18 Q. A grievance concerning what?

19 A. It s a grievance concerning my seniority rights.

20 Q. I m sorry, what do you mean by a grievance
21 concerning your seniority rights ?

22 A. Just as it states. Would you like me to read
23 it?

24 Q. Sure.

JANEY ASSOCIATES

1 A. Okay. In accordance with the National Master
2 Freight Agreement, Article V, and all of Article V
3 subsections, along with the New England Supplemental
4 Freight Agreement, Article No. XLIII, Seniority,
5 including all of Article XLIII subsections, I am
6 filing a grievance against New Penn Motor Express to
7 include all time lost, back pay, seniority and
8 contractual benefits under the contract agreement from
9 March 1st, 2002 up to and continuing past March 1st,
10 2003 based on the agreement between TNFINC and New
11 Penn Motor Express as a result of the closure of APA
12 operations.

13 Q. And had you been medically cleared to work
14 between March 1st, 2002 and March 1st, 2003?

15 A. No.

16 MS. PENNINI: If I could just have one
17 second. Would you please mark that as an Exhibit,
18 please?

19 (The document above-referred

20 to was marked Deposition

21 Exhibit No. 3 for Identification)

22 BY MS. PENNINI:

23 Q. Did you have any additional contact with

24 Mr. Carnes following your March 31st telephone

JANEY ASSOCIATES

1 conversation with him?

2 A. I filed a grievance with him.

3 Q. When was this grievance filed?

4 A. November 7th.

5 MR. LATHROP: November?

6 THE WITNESS: I mean, April 7th.

7 BY MS. PENNINI:

8 Q. And did you have any contact with Mr. Carnes
9 following your sending of the April 7th, 2003
10 grievance?

11 A. No.

12 Q. Did you attempt to contact Mr. Carnes at anytime
13 after the time you sent the April 7th, 2003 grievance?

14 A. No, I did not.

15 Q. Following the sending of the April 7th, 2003
16 grievance, what was the next time you had any contact
17 with anyone at Local 25?

18 A. I spoke to Mark Harrington.

19 Q. And when did you speak with Mark Harrington?

20 A. Sometime after May 2nd, 2003.

21 Q. Why did you speak with Mark Harrington after May
22 2nd, 2003?

23 A. Bill Carnes had left office.

24 Q. How did you know to contact Mr. Harrington?

JANEY ASSOCIATES

1 A. Mr. Harrington was the business agent that was
2 put in charge of the New Penn people.

3 Q. How did you know that Mr. Harrington had been
4 put in charge of the New Penn employees?

5 A. I don't recall.

6 Q. Sorry, just to back up a little bit. Before you
7 sent Mr. Carnes your April 7th, 2003 letter, did you
8 inform Mr. Carnes that you were on an APA seniority
9 list?

10 A. Yes.

11 Q. And did you speak with Mr. Carnes during the
12 spring of 2003, on March 31st I believe you said it
13 was, 2003?

14 A. Yes.

15 Q. Did you speak with him at all about your
16 October, 2001 grievance decision?

17 A. No.

18 Q. So Mr. Carnes was not aware of whether you had
19 been medically cleared to work or had served the
20 10-day suspension as of March 31st, 2003?

21 A. I don't know what Mr. Carnes knew, what he was
22 aware of. I have no idea.

23 Q. You said you spoke with Mr. Harrington sometime
24 after May 2nd, 2003?

JANEY ASSOCIATES

1 A. Yes.

2 Q. What sort of contact did you have with
3 Mr. Harrington?

4 A. It was a follow up conversation with regards to
5 the grievance I filed.

6 Q. A telephone call?

7 A. Yes.

8 Q. And do you recall when this telephone call
9 occurred?

10 A. Sometime after Bill Carnes had left office.

11 Q. Do you recall when after May 2nd, 2003 such
12 contact occurred?

13 A. No, not exactly.

14 Q. Do you recall what you said during this -- was
15 it a telephone conversation?

16 A. It was a telephone conversation, yes.

17 Q. And do you recall what you said during this
18 telephone conversation?

19 A. Regarding my grievance, What was the status of
20 my grievance? .

21 Q. Did you specifically ask Mr. Harrington what was
22 the status of your grievance?

23 A. Yes.

24 Q. And what did Mr. Harrington say?

JANEY ASSOCIATES

1 A. He said he didn't -- wasn't aware of a
2 grievance.

3 Q. Do you recall whether this conversation took
4 place during the summer of 2003?

5 A. It was in May. As I said, after Mr. Carnes left
6 office I was calling to follow up on the status of the
7 grievance.

8 Q. At this time did Mr. Harrington ask you if you
9 had been medically cleared to return to work?

10 A. No.

11 Q. Did you tell Mr. Harrington whether you had been
12 medically cleared to work?

13 A. No.

14 Q. Did you tell Mr. Harrington whether you had
15 served the 10-day suspension?

16 A. No.

17 Q. Did he ask you about the 10-day suspension that
18 was listed in the decision of October 16th, 2001?

19 A. I think he -- he may have mentioned it, yes.

20 Q. Do you recall what he said concerning that
21 suspension?

22 A. He said that I had a 10-day suspension to serve.

23 Q. During this May conversation Mr. Harrington told
24 you you had to serve a 10-day suspension?

JANEY ASSOCIATES

1 A. Yes.

2 Q. Did he tell you -- I m sorry, strike that. Did
3 you have any subsequent contact with Mr. Harrington
4 following the May, 2003 telephone conversation?

5 A. Yes, I forwarded him copies of the grievance.

6 Q. And when did you do that?

7 A. Initially, probably right in May. And then
8 there was follow up conversation in July, a telephone
9 conversation.

10 Q. Do you recall when in July you had this follow
11 up conversation?

12 A. Maybe a week before I wrote the letter.

13 Q. Do you recall whether it was a week before you
14 wrote the letter?

15 A. Yeah, it was probably a week before I wrote the
16 letter.

17 Q. And what did you speak about during this
18 conversation?

19 A. The grievance.

20 Q. Did Mr. Harrington tell you that there might be
21 an issue with the grievance because you had not been
22 medically cleared to return to work?

23 A. No.

24 Q. I m sorry, Mr. Harrington did not mention that?

JANEY ASSOCIATES

1 A. Nope.

2 Q. Did Mr. Harrington say anything concerning the
3 10-day suspension that you had spoken about during the
4 May, 2003 telephone call?

5 A. No, I don t think so.

6 Q. So what did Mr. Harrington speak about during
7 this telephone conversation?

8 A. We were trying to find out what became of the
9 grievance that was filed.

10 Q. And was there any resolution concerning what had
11 happened to the grievance you had sent in April of
12 2003?

13 A. I had sent him copies of it.

14 Q. But was there any resolution?

15 A. It was to my understanding that he was
16 negotiating with the company over the grievance.

17 Q. And by the company do you mean New Penn Motor
18 Express?

19 A. Yes.

20 Q. If you could please look at deposition Exhibit
21 No. 3? If you could look at the second paragraph, it
22 starts with Let s not lose sight of the real issue
23 here ?

24 A. Um-hum.

JANEY ASSOCIATES

1 Q. And in this paragraph you speak about the issue
2 being seniority rights not whether you were capable of
3 returning to work, or capable of working, is that
4 correct?

5 A. That s what it says.

6 Q. Do you recall why you wrote this paragraph?

7 A. I don t recall exactly what my thought process
8 was at the time, no.

9 Q. Had you ever had a conversation with
10 Mr. Harrington in which he discussed that there would
11 be an issue concerning whether or not you were capable
12 of returning to work?

13 A. No.

14 Q. Did you think there was an issue concerning
15 whether you were medically capable of returning to
16 work?

17 A. No.

18 MS. PENNINI: Please mark this as an
19 Exhibit?

20 (The document above-referred
21 to was marked Deposition
22 Exhibit No. 4 for Identification)

23 BY MS. PENNINI:

24 Q. Did you have any additional contact with
JANEY ASSOCIATES

1 Mr. Harrington during the summer of 2003 besides the
2 July telephone conversation you spoke about and the
3 letter of July 25th, 2003?

4 A. Yes, I believe there was another phone call.

5 Q. And when was this phone call?

6 A. Oh, I can t be sure.

7 Q. Can you give me an approximate date, was it
8 still during the summer of 2003?

9 A. August, maybe.

10 Q. Did you call Mr. Harrington or did

11 Mr. Harrington call you?

12 A. I believe I probably called Mr. Harrington.

13 Q. Did you call Mr. Harrington for any particular
14 reason in August of 2003?

15 A. Yes.

16 Q. And why was that?

17 A. To find out what the status of my grievance was.

18 Q. And what did Mr. Harrington tell you regarding
19 the status of your grievance?

20 A. I don t recall exactly what the conversation was
21 about. They were, to my understanding, again
22 discussing things with the company with regards to the
23 grievance.

24 Q. Did Mr. Harrington ever send you any

JANEY ASSOCIATES

1 correspondence during the summer of 2003?

2 A. No.

3 Q. Did you speak with Mr. Harrington at all during
4 the fall of 2003?

5 A. I believe I did.

6 Q. When did you have contact with Mr. Harrington
7 during the fall of 2003?

8 A. As I said, it was August. Sometime in August.

9 Q. What about during the fall of 2003?

10 A. September. Maybe August or September.

11 Q. Was there an additional phone call in August
12 besides the phone call you already mentioned?

13 A. No.

14 Q. Was there an additional phone call in September
15 besides the August phone call you have already
16 mentioned?

17 A. I don't recall.

18 Q. Do you recall if you spoke with Mr. Harrington
19 in October of 2003?

20 A. Yes, I might've.

21 Q. Do you recall whether you did?

22 A. As I said, I might have.

23 Q. Do you recall whether you spoke with

24 Mr. Harrington in November of 2003?

JANEY ASSOCIATES

1 A. I believe I did.

2 Q. Do you know whether you spoke with him in
3 November of 2003?

4 A. I m sure I did.

5 Q. And do you recall what you spoke about during
6 November of 2003?

7 A. The status of my grievance.

8 Q. And what did Mr. Harrington tell you?

9 A. That he was going to file a grievance.

10 Q. Did he say why he was filing a grievance?

11 A. That was his duty.

12 Q. So did he tell you in November of 2003 that he
13 was filing a grievance in November of 2003?

14 A. He was going to file the grievance with the
15 appropriate committee.

16 Q. Do you recall when in November this telephone
17 conversation took place?

18 A. No.

19 Q. During this November, 2003 telephone
20 conversation, did Mr. Harrington ask you whether you
21 had been medically cleared to return to work?

22 A. No.

23 Q. Did you tell Mr. Harrington whether you had been
24 medically cleared to return to work?

JANEY ASSOCIATES

1 A. Nope.

2 Q. Prior to November of 2003, you had said that
3 Mr. Harrington had been in negotiations with the
4 company concerning your grievance?

5 A. That s my understanding.

6 Q. And did your understanding change in November of
7 2003?

8 A. No.

9 Q. Did Mr. Harrington, in November of 2003, tell
10 you that he no longer wanted to negotiate with the
11 company concerning this grievance?

12 A. No.

13 Q. Did Mr. Harrington just tell you that he was
14 going to file a grievance at this time?

15 A. I filed the grievance. It was Mr. Harrington s
16 job --

17 Q. I m sorry, file the grievance with the --

18 MR. LATHROP: I think Mr. Goulet was
19 attempting to answer your question, so if you would
20 allow him please.

21 MS. PENNINI: Okay.

22 THE WITNESS: I filed the grievance with
23 the local union. It was their job to docket the case
24 before the committee to have it heard.

JANEY ASSOCIATES

1 BY MS. PENNINI:

2 Q. Had you ever filed other grievances with the
3 local union prior to 2003?

4 A. Yes.

5 Q. And when did you file prior grievances?

6 A. 1987.

7 Q. And what was this grievance concerning?

8 A. Working conditions.

9 Q. When you filed this grievance, did you
10 immediately file it with the local?

11 A. Yes.

12 Q. To whom did you give your grievance?

13 A. I m going to say George Cashman.

14 Q. In 1987, do you recall whether there was a
15 steward at the APA facility in Canton?

16 A. Yes. Yes, there was.

17 Q. Do you recall who this was?

18 A. His last name was Yettman. I m not sure what
19 his first name was. Bobby.

20 Q. Did you file a grievance with Mr. Yettman in
21 1987?

22 A. I believe I filed it with George Cashman.

23 Q. And why did you file it with George Cashman?

24 A. I had been discharged, Mr. Yettman was at home.

JANEY ASSOCIATES

1 Q. I m sorry, I thought you said working
2 conditions?

3 A. It was working conditions. I think there was a
4 discharge that may have been involved with it.

5 Q. Did you file more than one grievance in 1987?

6 A. No, I don t think so.

7 Q. So it was the grievance you were discussing
8 concerning the February 25th termination?

9 A. No.

10 MR. LATHROP: Did you say February 25th?

11 MS. PENNINI: The 1987 termination.

12 MR. LATHROP: Objection.

13 THE WITNESS: Nope.

14 BY MS. PENNINI:

15 Q. Did you file a grievance concerning the February
16 25th, 1987 termination?

17 MR. LATHROP: Objection.

18 THE WITNESS: The union filed the response
19 to the discharge.

20 BY MS. PENNINI:

21 Q. Okay. You said you filed a grievance in 1987
22 concerning working conditions, just to clarify, and
23 that you filed this with George Cashman because

24 Mr. Yettman was unavailable?

JANEY ASSOCIATES

1 A. Right.

2 Q. Do you know why Mr. Yettman was unavailable?

3 A. Mr. Yettman worked on the day shift and I worked
4 on the night shift.

5 Q. Was there a steward on the night shift, as well?

6 A. No.

7 Q. Do you recall when in 1987 this grievance was
8 filed?

9 A. November -- no, that s not right. Maybe it was
10 January.

11 Q. If you could please look at deposition Exhibit
12 No. 4? Did you write this letter?

13 A. Yes.

14 Q. Did you send this letter to Mr. Harrington?

15 A. Yes.

16 Q. And was this letter written before or after your
17 telephone conversation with him in November of 2003?

18 A. Afterwards.

19 Q. Do you recall why you wrote this letter?

20 A. Yes.

21 Q. And why is that?

22 A. Again, to follow up on the grievance that I had
23 filed.

24 Q. Following your termination on March 12, 1987 you

JANEY ASSOCIATES

1 said you were on Worker s Compensation leave, correct?

2 A. Say that again.

3 Q. Following the March 12th, 1987 termination from
4 APA, you said you were on industrial accident leave or
5 Worker s Compensation leave?

6 A. Yes.

7 Q. During your time on Worker s Compensation leave,
8 were you able to drive?

9 A. Yes.

10 Q. Did you have any issues concerning your ability
11 to drive?

12 A. No.

13 Q. Did you have any problem concerning your ability
14 to lift any objects?

15 A. Yes.

16 Q. And what was that inability?

17 A. I had certain restrictions on lifting heavy
18 objects as a result of the herniated disc in my back
19 and my neck.

20 Q. And you had mentioned that there was a 35 pound
21 restriction as a result of that?

22 A. Yes.

23 Q. Have you been able to remember any additional
24 restrictions?

JANEY ASSOCIATES

1 A. No.

2 Q. Do you recall whether that was the only
3 restriction now -- do you still not recall whether
4 there were any additional specific restrictions?

5 A. No, offhand I don't.

6 Q. Were you incapacitated for anytime following the
7 March, 1987 termination?

8 MR. LATHROP: Objection.

9 THE WITNESS: Could you say that again?

10 BY MS. PENNINI:

11 Q. Following the March 12th, 1987 termination, were
12 you able to walk and get around?

13 A. I did, yes.

14 Q. Following this termination did you ever seek any
15 additional education?

16 A. No.

17 Q. Did you graduate from high school?

18 A. Yes, I did.

19 Q. When did you graduate from high school?

20 A. 1978.

21 Q. Where did you graduate from high school?

22 A. Hudson High School.

23 Q. Did you attend any college or other institution
24 following your graduation from high school?

JANEY ASSOCIATES

1 A. No.

2 Q. In what year were you born?

3 A. 1960.

4 Q. And what is the date of your birth?

5 A. 6/11/1960.

6 Q. Would that be June 11th, 1960?

7 A. Yes, it would be.

8 Q. And you said you currently live in Hudson,
9 Massachusetts?

10 A. Yes, I do.

11 Q. And you said Cox Street, Hudson, Massachusetts?

12 A. C-O-X, yeah.

13 Q. Have you lived in any other places besides Cox
14 Street in Hudson, Massachusetts between 1978 and the
15 present?

16 A. Yes.

17 Q. Where else did you live?

18 A. I lived in Marlboro for a time.

19 Q. And what was your address?

20 A. 750 Farm Road.

21 Q. When did you live on Farm Road in Marlboro?

22 A. 1982 til 1986.

23 Q. Did you live on Cox Street between 1978 and
24 1986?

JANEY ASSOCIATES

1 A. Yes. Not until 1986. Did you say 1986?

2 Q. I m sorry, where did you live between 1978 and
3 1982?

4 A. I lived on Cox Street.

5 Q. Where did you live between 1960 and 1978?

6 A. At Cox Street.

7 Q. The same place on Cox Street?

8 A. Yes.

9 Q. Where did you live after 1986? You said you
10 lived in Marlboro from 1982 to 1986, where did you

11 live after Farm Road in Marlboro?

12 A. Back to Hudson, Cox Street.

13 Q. Have you lived anyplace else besides Cox Street
14 in Hudson, Massachusetts between 1986 and the present?

15 A. No.

16 Q. Do you own the house on Cox Street?

17 A. Yes.

18 Q. I m sorry, do you live in a house on Cox Street?

19 A. Yes.

20 Q. How long have you owned this house?

21 A. How long have I owned the house?

22 Q. Yes.

23 A. Since I ve lived there.

24 Q. I m sorry, I thought you said you lived there

JANEY ASSOCIATES

1 since 1960?

2 A. Since I moved back there in 1987 -- 86.

3 Q. Do you have any particular hobbies that you
4 engage in?

5 A. I go to my daughter s field hockey games, I like
6 to go to the races.

7 Q. What races do you --

8 A. Stock cars.

9 Q. I m sorry, stock cars?

10 A. Race cars, yes.

11 Q. So do you watch stock car races?

12 A. Yes.

13 Q. Do you participate in stock car races?

14 A. I own a stock car.

15 Q. How long have you owned a stock car?

16 A. The family s had stock cars since the 50's.

17 Q. I m sorry, what do you mean by your family has
18 had stock cars? Could you explain to me what you mean
19 by that?

20 A. Yeah, my family owned a junk yard and they had
21 stock cars, and we were involved with stock cars as
22 kids. And me and my brothers had cars all our lives.

23 Q. So you said you own -- do you own one stock car?

24 A. Yes.

JANEY ASSOCIATES

1 Q. Have you ever owned another car besides the one
2 you currently own?

3 A. No.

4 Q. I m sorry, was that no ?

5 A. No.

6 Q. How long have you owned the stock car that you
7 currently own?

8 A. Since 1996.

9 Q. Not to be ignorant here, what kind of stock car
10 is it? Could you explain to me what a stock car is?

11 A. It s a race car.

12 Q. Is it a particular kind of race car? Could you
13 explain to me a little more.

14 A. It goes around in circles.

15 Q. What is it that makes a stock car different than
16 a typical sedan?

17 A. It s one that they use to race in circles. It s
18 not a dragster.

19 Q. Okay. Does that mean there is a different size
20 engine in a stock car than in a typical sedan?

21 A. Oh, I don t know.

22 Q. I know you said you owned a stock car and you
23 watched stock car racing. Do you also drive a stock
24 car?

JANEY ASSOCIATES

1 A. No.

2 Q. Did you ever participate in stock car racing as
3 a driver?

4 A. No.

5 Q. Is there someone that does race your stock car?

6 A. Yes.

7 Q. And who is that?

8 A. His name is Jeff.

9 Q. Does Jeff have a last name?

10 A. Yeah, Crowley.

11 Q. How often does Jeff Crowley race in your stock
12 car?

13 A. He hasn't raced at all this year. It's been --
14 not since last year.

15 Q. But you still own this car?

16 A. Yes.

17 Q. Can you win money owning a stock car?

18 MR. LATHROP: I'm sorry, what did you say?

19 MS. PENNINI: Can you, as a stock car
20 owner, win money based on how Mr. Crowley does in a
21 stock car race?

22 THE WITNESS: I think -- yes, there's a
23 payoff for the finish.

24 BY MS. PENNINI:

JANEY ASSOCIATES

1 Q. Has Mr. Crowley ever placed well in a stock car
2 race?

3 A. Yes.

4 Q. And what is the most that Mr. Crowley has ever
5 won for his stock car racing?

6 A. Oh, I don t know.

7 Q. Or as the stock car owner are you entitled to a
8 portion of whatever is earned by Mr. Crowley s
9 finishes?

10 A. Mr. Crowley got the checks.

11 Q. As the owner of the car are you entitled a
12 portion of that money?

13 A. Mr. Crowley got the checks. I didn t get
14 anything.

15 Q. Are you entitled, as a stock car owner, to part
16 of that money?

17 A. I suppose I could be.

18 MS. PENNINI: I have no further questions
19 at this time.

20 MR. GLUEK: Can we take a break for five
21 minutes?

22 MS. PENNINI: Yes, please.

23 (A brief recess was taken)

24 MR. GLUEK: Back on the record.

JANEY ASSOCIATES

1 EXAMINATION

2 BY MR. GLUEK:

3 Q. The ground rules are the same. I don't
4 anticipate this taking too long, but if you don't
5 understand one of my questions, please tell me. If
6 you cannot hear one of my questions, please tell me.

7 If you answer one of my questions, I am going to
8 assume that you both heard and understood the
9 question, is that fair?

10 A. Yes.

11 Q. This is not supposed to be an endurance contest.
12 If you need to take a break, just tell me, we'll take
13 a break, okay?

14 A. Okay.

15 Q. If you need to talk to your lawyer, as long as
16 there is a question not pending, just say you need to
17 take a break, okay?

18 A. Yeah.

19 Q. Have you ever been convicted of any crimes?

20 A. Have I ever been convicted of any crimes? I'm
21 not sure I understand the question.

22 Q. Do you know what a crime is?

23 A. Yes.

24 Q. Do you know what a conviction is?

JANEY ASSOCIATES

1 A. I think so.

2 Q. Okay. Have you been convicted of any crimes?

3 A. I don t think so.

4 Q. Do you have anything that would refresh your
5 recollection?

6 A. No.

7 Q. Are you married?

8 A. Yes.

9 Q. To whom?

10 A. Ann M. Goulet.

11 Q. How long have you been married?

12 A. 15 years.

13 Q. Any prior marriages?

14 A. No.

15 Q. Does she work?

16 A. Yes.

17 Q. Where does she work?

18 A. She works for herself.

19 Q. What does she do?

20 A. She drives a coffee truck.

21 Q. Does she have a d/b/a, doing business as?

22 A. Yes.

23 Q. And what is that?

24 A. Ann s Quality Catering.

JANEY ASSOCIATES

1 Q. Does she employ anyone?

2 A. No.

3 Q. Do you help her out on the truck?

4 A. No.

5 Q. How long has she been operating Ann s Quality
6 Catering?

7 A. Five years.

8 Q. Before that was she employed?

9 A. Yes.

10 Q. By whom?

11 A. She was in the restaurant business, she was a
12 waitress/bartender.

13 Q. And for how long did she do that?

14 A. Ten or twelve years.

15 Q. One particular restaurant/bar or several during
16 that period?

17 A. Several.

18 Q. Can you name them, please?

19 A. The 401 Club.

20 Q. Where is that?

21 A. Marlboro, Mass.

22 Q. Okay.

23 A. Scaletti s Restaurant.

24 Q. Can you spell that?

JANEY ASSOCIATES

1 A. I can t.

2 Q. Can you say it slowly then?

3 A. Scaletti s.

4 Q. And where is that located?

5 A. Hudson.

6 Q. Any others?

7 A. Nope.

8 Q. No others or no others that you remember?

9 A. No others.

10 Q. Do you have children?

11 A. Yes.

12 Q. How many?

13 A. Two.

14 Q. Names?

15 A. Craig, Jr.

16 Q. How old?

17 A. 23.

18 Q. Is he dependant upon you?

19 A. No.

20 Q. And your other child?

21 A. Nicole.

22 Q. Nicole is how old?

23 A. 17.

24 Q. Is she dependant upon you?

JANEY ASSOCIATES

1 A. Yes.

2 Q. Other than this lawsuit, have you filed any
3 other lawsuits?

4 A. No.

5 Q. Have you been a defendant in any lawsuit?

6 A. No.

7 Q. I believe I understood your testimony that since
8 your accident at APA until March 1st, 2002 you had not
9 worked, is that correct?

10 A. Yes.

11 Q. Since March 1st, 2002 to the present, have you
12 been employed?

13 A. No.

14 Q. Since March 1st, 2002 until the present, have
15 you been offered employment by any employer?

16 A. No.

17 Q. Since March 1st, 2002 until the present, have
18 you had any interviews for employment?

19 A. No.

20 Q. Since March 1st, 2002 until the present, have
21 you filed any applications for employment?

22 A. No.

23 Q. Since March 1st, 2002 until the present, have
24 you sent out any resumes?

JANEY ASSOCIATES

1 A. No.

2 Q. Since March 1st, 2002 until the present, have
3 you contacted any employment counselors?

4 A. Nope.

5 Q. Since March 1st, 2002 until the present, have
6 you gone to the library or purchased any books in

7 terms of how one goes about finding employment?

8 A. No.

9 Q. Since March 1st, 2002 until the present, have
10 you gotten on the computer to look for employment?

11 A. No.

12 Q. Since March 1st, 2002 until the present, have
13 you made any efforts to find employment?

14 A. No.

15 Q. Why not?

16 A. I ve got some outstanding issues with regard to
17 my industrial accident.

18 Q. What are those outstanding issues you have
19 regarding your industrial accident?

20 A. I ve got a knee that needs to be reconstructed.

21 Q. Is that from the blown out tendon?

22 A. Yes.

23 Q. Do you have any plans to get that knee

24 reconstructed?

JANEY ASSOCIATES

1 A. Yes.

2 Q. When?

3 A. As soon as they resolve all the issues with the
4 insurance company with the old employer.

5 Q. Any other outstanding issues you have regarding
6 your industrial accident?

7 A. No.

8 Q. Just your knee?

9 A. Yes.

10 Q. From March 1st, 2002 until the present, do you
11 have any restrictions regarding your ability to work?

12 A. Could you repeat the question?

13 MR. GLUEK: Can you repeat it, please?

14 (Question read back)

15 THE WITNESS: I m not under any doctor s
16 care at this time.

17 BY MR. GLUEK:

18 Q. The question still remains, since March 1st,
19 2002 until the present, do you have any restrictions
20 that effects your ability to work?

21 A. Yes.

22 Q. What are those restrictions?

23 A. I have a herniated disc in my lower back.

24 Q. Still?

JANEY ASSOCIATES

1 A. Still.

2 Q. Any other restrictions?

3 A. A herniated disc in my neck.

4 Q. Still?

5 A. Still.

6 Q. Any other restrictions?

7 A. And the ligament in my knee.

8 Q. Now your herniated disc in your lower back, does
9 that effect your ability to sit?

10 A. On occasion, yes.

11 Q. Does that effect your ability to stand?

12 A. Yes.

13 Q. Does that effect your ability to lift?

14 A. Yes.

15 Q. Does it effect your ability to turn?

16 A. Yes.

17 Q. Does it effect your ability to bend?

18 A. Yes.

19 Q. All in negative ways?

20 A. Yes.

21 Q. With respect to your herniated disc in your
22 neck, does that effect your ability to bend?

23 A. No.

24 Q. What limitations does the herniated disc in your

JANEY ASSOCIATES

1 neck have on you?

2 A. It depends on the level of pain I m having on
3 any particular day.

4 Q. So it s painful?

5 A. Very painful.

6 Q. Do you take medication for your herniated disc

7 in the neck?

8 A. Yes, I do.

9 Q. And what kind of medication?

10 A. Naprosin, Soma.

11 Q. And what are those?

12 A. Anti-inflammatory pain medication.

13 Q. And with respect to your herniated disc to your
14 lower back, is that also painful?

15 A. Yes.

16 Q. Do you take medication for that?

17 A. The same medications.

18 Q. Only the two medications?

19 A. Yes.

20 Q. Do you have a commercial driver s license?

21 A. Yes, I do.

22 Q. Is it still current?

23 A. Yes.

24 Q. Are you required to take a physical periodically

JANEY ASSOCIATES

1 to keep that current?

2 A. No.

3 Q. With respect to your knee, what limitations does
4 that cause on you?

5 A. Well it s tough to get around some days.

6 Q. With your limitations, could you currently do
7 dock work?

8 A. I could try.

9 Q. That is not the question. Do you know if you
10 could currently do dock work with your limitations?

11 A. I do not know.

12 Q. With your limitations, do you know if you could
13 currently do driving work?

14 A. I do not know.

15 Q. You testified that you appealed your award of
16 partial disability, is that correct?

17 A. Yes.

18 Q. Why did you appeal it?

19 A. Why did I appeal it?

20 Q. Is it because you thought you should have gotten
21 total disability?

22 A. Yes.

23 Q. Do you still believe you should have gotten
24 total disability?

JANEY ASSOCIATES

1 A. Yes.

2 Q. Do you believe that you are currently totally
3 disabled?

4 A. Yes.

5 Q. You testified that in 1995 you received Social
6 Security benefits, correct?

7 A. Yes.

8 Q. Are you currently receiving Social Security
9 benefits?

10 A. Yes, I am.

11 Q. Now when you received the Social Security
12 benefits in 1995, did it go retroactive?

13 A. Yes.

14 Q. To what period?

15 A. March 11th, 1987.

16 Q. What is your monthly benefit on your Social
17 Security currently?

18 A. \$2,160.00.

19 Q. And has that remained the same or has that gone
20 up?

21 A. It goes up every year.

22 Q. Do you remember what the lowest amount was?

23 A. Not offhand.

24 Q. And I am assuming your children were also

JANEY ASSOCIATES

1 receiving Social Security benefits when they were
2 minors?

3 A. That s included.

4 Q. The 2,160 includes their benefit?

5 A. Yes.

6 Q. Does your non-minor child still get Social

7 Security benefits?

8 A. Yes.

9 Q. Do you have to periodically reapply for Social
10 Security benefits?

11 A. No.

12 Q. Do you have to update Social Security with
13 respect to your status?

14 A. No.

15 Q. Where did you apply for these Social Security
16 benefits?

17 A. Framingham.

18 Q. Were you or are you currently assigned a case
19 worker for Social Security?

20 A. No.

21 Q. And you were never assigned a case worker?

22 A. No.

23 Q. Do you know who your contact person was at

24 Social Security when you applied?

JANEY ASSOCIATES

1 A. No.

2 Q. Do you have any documents regarding Social
3 Security and your application for Social Security?

4 A. Do I have any documents?

5 Q. Correct.

6 A. What kind of documents?

7 Q. Any piece of paper.

8 A. Saying what?

9 Q. That relates to your Social Security benefits
10 and/or your application for Social Security.

11 A. I have documents that pertain to my Social
12 Security, yes.

13 Q. Do you have a lawyer that represented you when
14 you applied for Social Security?

15 A. Yes.

16 Q. And what is his name?

17 A. The law firm was Ellis & Ellis out of Worcester.

18 Q. And which lawyer at Ellis & Ellis did you deal
19 with?

20 A. I believe it was Bob Marque.

21 Q. When was the last time you talked to Mr. Marque?

22 A. I don't recall.

23 Q. Since 1995?

24 A. Yeah, probably.

JANEY ASSOCIATES

1 Q. Since last year?

2 A. Nope, not last year.

3 Q. The last five years?

4 A. Nope.

5 Q. The last ten years?

6 A. 1995.

7 Q. Okay. Have you talked to anybody at New Penn
8 since March 1st, 2002?

9 A. No.

10 Q. Have you called up New Penn and asked if you are
11 going to be called?

12 A. No.

13 Q. Have you ever filled out an application at New
14 Penn?

15 A. Nope.

16 Q. Do you know Mr. Carnes?

17 A. Yes.

18 Q. Do you believe that he had any ill will towards
19 you?

20 A. I don t know that.

21 Q. You don t have an opinion one way or the other?

22 A. Nope.

23 Q. Do you have any facts that would suggest that he
24 had any ill will towards you?

JANEY ASSOCIATES

1 A. No.

2 Q. Do you have any facts that Mr. Carnes was
3 prejudiced against you in someway?

4 A. No.

5 Q. Do you have any facts that Mr. Carnes disliked
6 you in any respect?

7 A. Nope.

8 Q. You know Mr. Harrington, correct?

9 A. Yes.

10 Q. Do you have any facts to believe that
11 Mr. Harrington has any ill will towards you?

12 A. Nope.

13 Q. Do you have any facts to believe that
14 Mr. Harrington had any prejudice towards you in any
15 respect?

16 A. Nope.

17 Q. Do you have any facts that Mr. Harrington
18 somehow wanted to see you damaged?

19 A. Nope.

20 Q. Do you have any facts that anyone connected with
21 the union had any ill will towards you?

22 A. No.

23 Q. Do you have any facts that anybody connected
24 with the union had any prejudices towards you?

JANEY ASSOCIATES

1 A. No.

2 Q. Do you have any facts that anyone connected with
3 the union had any hatred towards you?

4 A. Nope.

5 Q. Between March 1, 2002 and March 30, 2003, do you
6 know if you could have worked 30 days at New Penn?

7 A. Nope.

8 Q. Let me rephrase the question. Between March 1,
9 2002 and March 30, 2003, do you know if you could have
10 worked 30 days in a two month period at New Penn?

11 A. No.

12 Q. I think I understood your testimony, sir, that
13 after you filed a grievance on April 7th, 2003 you had
14 no discussions with Mr. Carnes?

15 MR. LATHROP: I m sorry, could I have that
16 date again?

17 MR. GLUEK: After April 7th, 2003, which is
18 the date your grievance is dated.

19 THE WITNESS: Um-hum.

20 BY MR. GLUEK:

21 Q. You had no conversations with Mr. Carnes, is
22 that correct?

23 A. I don t believe I did.

24 Q. Do you have anything that would refresh your

JANEY ASSOCIATES

1 recollection?

2 A. Nope.

3 Q. Do you have any documents memorializing any
4 conversations that you had with Mr. Carnes?

5 A. Nope.

6 Q. Did Mr. Carnes ever tell you to wait until after
7 the agreement with New Penn and the union expired
8 before you filed a grievance?

9 A. No.

10 Q. Did anybody have any discussion with you from
11 the union with respect to the timing of when the
12 grievance should be filed by you?

13 A. No.

14 Q. It is your testimony, isn't it sir, that for the
15 period between March 1, 2002 and March 30, 2003 you
16 had several discussions with Mr. Carnes?

17 A. Yes.

18 Q. And those were follow up discussions about you
19 not being called by New Penn, correct?

20 A. Yes.

21 Q. So during that time period you were aware that
22 there was at least an issue, correct?

23 A. No.

24 Q. Then why did you make these calls?

JANEY ASSOCIATES

1 A. To find out what the status of things were.

2 Q. And what did Mr. Carnes tell you the status was?

3 A. At first he said he wasn't sure and he would
4 look into it.

5 Q. That was in the springtime?

6 A. Yes.

7 Q. Did he say anything else in the springtime?

8 A. Nope.

9 Q. And I believe your testimony was two
10 conversations you had in the spring, correct?

11 A. Was it two in the spring? It may have been.
12 Initial phone call -- there was an initial phone call
13 with Mark Harrington, who told me that he no longer
14 represented the men at APA, I need to speak with Bill
15 Carnes.

16 Q. Right. And then you had, in the spring of 2002,
17 how many conversations with Mr. Carnes did you have?

18 A. I had a follow up phone call from the Mark
19 Harrington call with Mr. Carnes, and then one more
20 after that.

21 Q. In the spring?

22 A. Early summer, spring. Late spring, early
23 summer.

24 Q. And I apologize. We have already been over

JANEY ASSOCIATES

1 this, but now I am confused. Mr. Harrington called
2 you up in the spring of 2002 to say he was no long --

3 A. No, I called Mr. Harrington.

4 Q. And he said he is no long responsible for APA,
5 correct?

6 A. Right.

7 Q. Then you called Mr. Carnes, correct?

8 A. Yes.

9 Q. And Mr. Carnes said that he didn t know and he
10 would follow up?

11 A. Right.

12 Q. Did he say anything else?

13 A. No.

14 Q. And that took place in the spring of 2002,
15 correct?

16 A. Yes.

17 Q. And it is your testimony that he said -- that
18 you can recall that he said nothing other than he
19 didn t know?

20 A. General conversation about what was going on,
21 the whole issue.

22 Q. What else do you remember that he said?

23 A. He said that he was going to look into it.

24 Q. Do you remember anything else?

JANEY ASSOCIATES

1 A. No.

2 Q. When was the next time you talked to Mr. Carnes?

3 A. I can t be sure.

4 Q. But there was a subsequent time?

5 A. Yes.

6 Q. And was this by telephone?

7 A. Yes.

8 Q. Did you call him?

9 A. Yes.

10 Q. Did you take any notes of that conversation?

11 A. I didn t take any written notes.

12 Q. What was the substance of that conversation?

13 A. The fact that he had spoke with New Penn with
14 regards to my situation. He had conversations with
15 the New Penn people. I m not sure if it was with the
16 terminal manager or Dan Schmidt and possibly Charlie
17 Zaccaria, but that was six months in advance from
18 getting the grievance.

19 Q. So he said he talked to New Penn?

20 A. Yeah.

21 Q. Did he say to whom he talked to?

22 A. No.

23 Q. Did he say what he said to New Penn?

24 A. He -- yes.

JANEY ASSOCIATES

1 Q. What did he say he said?

2 A. That he had an APA employee that was looking to
3 be put to work.

4 Q. Did he say anything else to you?

5 A. He talked about, I guess they told him that my
6 name wasn't on the list, on the seniority list and he
7 said it was on the seniority list. He said, I'll
8 show you the decision from the New England Joint
9 Committee that puts him on the list.

10 Q. Did he say anything else?

11 A. Nope, just that he would get back to me.

12 Q. That is all that you remember of the
13 conversation?

14 A. Yes.

15 Q. Nothing else?

16 A. No.

17 Q. When was the next conversation you had with
18 Mr. Carnes?

19 A. March.

20 Q. Of 2003?

21 A. Yes.

22 Q. Who initiated that conversation?

23 A. I believe I did.

24 Q. And what do you recall of that conversation?

JANEY ASSOCIATES

1 A. I called and asked him what my status was as far
2 as being called. The agreement, in effect, ended and
3 I hadn t received a phone call.

4 Q. What else of that conversation do you recall?

5 A. He said to me, pardon my french, They fucked
6 yah. Send the grievance in.

7 Q. Did you say anything else?

8 A. Nope, I wrote the grievance.

9 Q. Did he say anything else?

10 A. Nope.

11 Q. That was it of the conversation?

12 A. Um-hum.

13 Q. Do you have any notes of that conversation?

14 A. Nope.

15 Q. Could you look at, please, what has been marked
16 as Goulet Exhibit 2? Is that your grievance?

17 A. Yes.

18 Q. Is that your handwriting?

19 A. Yes, it is.

20 Q. Did anybody assist you in preparing this
21 grievance?

22 A. Nobody.

23 Q. Between the conversation that you had with

24 Mr. Carnes where he said, They fucked you. Send in

JANEY ASSOCIATES

1 the grievance. and the time that you sent in the

2 grievance, did you have any other conversations with

3 Mr. Carnes?

4 A. Don t believe I did.

5 Q. You do not believe you did?

6 A. I don t think so.

7 Q. Okay. After you sent in the grievance, your
8 next contact was with Mr. Harrington, is that correct?

9 A. Yes.

10 Q. Did you initiate that?

11 A. Yes.

12 Q. Do you recall when that occurred?

13 A. Sometime after Bill Carnes left office.

14 Q. But it was in May?

15 A. I believe so.

16 Q. May, 2003?

17 A. Yes.

18 Q. And do you have any notes of that conversation?

19 A. Nope.

20 Q. What was said during that conversation?

21 A. Basically, I was following up on the status of
22 the grievance. Like I said, I filed a grievance with
23 the union --

24 Q. And I think your prior testimony was

JANEY ASSOCIATES

1 Mr. Harrington said he didn t know anything about it,
2 correct?

3 A. He said he didn t have any copies of the
4 grievance.

5 Q. Do you know if he knew about the grievance
6 before your phone call?

7 A. Yes, I m sure he did.

8 Q. Do you know that for a fact?

9 A. No.

10 Q. As best you can recall, what were

11 Mr. Harrington s exact words to you during that
12 conversation?

13 A. That he didn t have a copy of the grievance.
14 That Bill Carnes didn t file it with the committee,
15 that s why it didn t get filed. Pretty basic.

16 Q. Do you recall anything else he said?

17 A. Nope.

18 Q. When was your next conversation with
19 Mr. Harrington?

20 A. Maybe sometime in June.

21 Q. And did you initiate that conversation?

22 A. I m sure I did, yes.

23 Q. Do you have any notes of that conversation?

24 A. No.

JANEY ASSOCIATES

1 Q. What was the substance of that conversation?

2 A. Again, to follow up on what happened to my
3 grievance.

4 Q. And what did Mr. Harrington say?

5 A. I don't recall.

6 Q. You don't recall anything he said?

7 A. No.

8 Q. Do you recall anything that you said?

9 A. Just trying to find out what happened to the
10 grievance.

11 Q. And that's all that you recall from that
12 conversation?

13 A. Yeah.

14 Q. When was your next conversation with
15 Mr. Harrington?

16 A. I think I followed that up with the letter I
17 wrote.

18 Q. So that is the July 25th letter?

19 A. Yeah.

20 Q. Could you look at Exhibit 3, please?

21 A. Um-hum.

22 Q. Is it still your sworn testimony that you do not
23 recall why you wrote Let's not lose sight of the real

24 issue here. The grievance is about seniority rights

JANEY ASSOCIATES

1 under the agreement not whether one was capable of
2 working or not.

3 MR. LATHROP: Objection.

4 THE WITNESS: Is it my sworn testimony what
5 now?

6 BY MR. GLUEK:

7 Q. Is it still your sworn testimony that you have
8 no recollection as to why you wrote that?

9 MR. LATHROP: Objection.

10 THE WITNESS: Again, you know, I m not sure
11 what my thought process was at the time. Like I said,
12 I was trying to follow up on the grievance that I had
13 submitted and maybe there was some conversation about
14 I was on comp or something, and I think I told them I
15 wasn t on comp. I wasn t collecting a Workman s
16 Compensation check.

17 BY MR. GLUEK:

18 Q. So isn t it a fact that Mr. Harrington had
19 conversations with you prior to you writing Exhibit 3
20 where he indicated to you that you may not be able for
21 recall because you were not able to work?

22 A. No.

23 Q. Do you know whether or not the union ever
24 supplied New Penn with your name on the seniority

JANEY ASSOCIATES

1 list?

2 A. Yes, they did.

3 Q. How do you know that?

4 A. I have a copy of that, and I have a copy of the
5 letter from the freight director that was sent out to
6 the locals with my name on it.

7 Q. Do you know if that was given to New Penn?

8 A. Yes, it was.

9 Q. And how do you know that?

10 A. It was forwarded to New Penn from APA. From
11 their corporate offices to New Penn s corporate
12 offices.

13 Q. Okay. So APA forwarded it to New Penn?

14 A. Yes.

15 Q. Listen to my question. My question, sir, was
16 whether the union -- do you know if the union ever
17 forwarded your name on a seniority list to New Penn?

18 A. I don t know that.

19 Q. Okay. After your conversation with
20 Mr. Harrington in June of 2003, when was the next time
21 you talked to him?

22 A. As I said, I wrote the letter and I didn t hear
23 anything. So I probably called him sometime in early
24 November, I m going to say, before I wrote the second

JANEY ASSOCIATES

1 letter.

2 Q. And do you have any notes of that conversation?

3 A. No.

4 Q. What was discussed during that conversation?

5 A. Same thing, what happened to my grievance.

6 Q. And what was his response?

7 A. That they were going to file it. They were
8 going to file it with the committee and get it heard.

9 Q. Anything else that you recall?

10 A. Nope.

11 Q. Nothing else?

12 A. No.

13 Q. Did you have an understanding as to why the
14 grievance had not been previously filed?

15 A. No.

16 Q. Were you ever told why the grievance was not
17 previously filed?

18 A. I was told that Bill Carnes didn't file the
19 grievance, that's why it wasn't filed.

20 Q. Were you ever told why the grievance was not
21 filed after Mr. Carnes left office?

22 A. No.

23 Q. Doug, I can't remember his last name, Francie?

24 A. Yes.

JANEY ASSOCIATES

1 Q. How do you pronounce it?

2 A. Francie.

3 Q. Francie?

4 A. Francie.

5 Q. When was the last time you talked to him?

6 A. February of 2002.

7 Q. So that was during the phone call that he asked
8 you what?

9 A. What my preference was.

10 Q. And my preference was Billerica?

11 A. Yes.

12 Q. Do you know if Doug is currently employed?

13 A. I don t know.

14 Q. After your conversation with Mr. Harrington

15 sometime in the November time period, do you have any
16 subsequent conversation with him?

17 MR. LATHROP: I m sorry, with
18 Mr. Harrington?

19 MR. GLUEK: Yes.

20 THE WITNESS: Nope. I sent that letter to
21 him and then I think we spoke again in the fall and
22 spring. Had met several times with regards to the
23 case being presented to the committee.

24 BY MR. GLUEK:

JANEY ASSOCIATES

1 Q. So you personally met Mr. Harrington?

2 A. Yes.

3 Q. And did you take any notes of those
4 conversations?

5 A. No.

6 Q. Or meetings?

7 A. Nope.

8 Q. Did Mr. Harrington ever imply to you as to the
9 merits in your case?

10 A. No.

11 Q. Did Mr. Harrington ever indicate that he thought
12 your case was a strong case or a weak case?

13 A. I think that he said we had a good case.

14 Q. The question is, did he ever tell you you had a
15 good case or a bad case?

16 A. Yes.

17 Q. In what context did he say that?

18 A. How do you mean? What do you mean context , in
19 what context?

20 Q. Was this in a phone conversation or --

21 A. No, this was in person.

22 Q. When you were preparing for the case?

23 A. Yes.

24 Q. Did he indicate to you why he thought it was a

JANEY ASSOCIATES

1 strong case?

2 A. Just based on the merits of the case.

3 Q. Do you recall anything else?

4 A. No.

5 Q. Do you think the union just made a simple
6 mistake by not filing your grievance timely?

7 MR. LATHROP: Objection.

8 THE WITNESS: I don t know.

9 BY MR. GLUEK:

10 Q. Do you have any facts that would suggest that
11 the union did anything more than just make a simple
12 mistake not filing your grievance timely?

13 MR. LATHROP: Objection.

14 THE WITNESS: I don t know what they did.

15 BY MR. GLUEK:

16 Q. Do you have an understanding that with respect
17 to your decision the decision of the committee is
18 final and binding?

19 A. That s what the decision says.

20 Q. Is that your understanding going into it?

21 A. Yes.

22 Q. Now when you were being questioned by the
23 union s lawyer you said that you had an understanding
24 that Mr. Harrington was negotiating with the company?

JANEY ASSOCIATES

1 A. Yes.

2 Q. Why did you have that understanding?

3 A. Through the phone conversations that we had that
4 there was dialogue between Mr. Carnes and
5 Mr. Harrington with New Penn.

6 Q. Did he indicate to you what the dialogue was?

7 A. No.

8 Q. Did he indicate to with whom he would speak at
9 New Penn?

10 A. Nope.

11 Q. Other than the two medications that you
12 previously testified about, have you taken any other
13 medication since March 1, 2002?

14 A. No.

15 Q. And they are just anti-inflammatories is your
16 testimony?

17 A. Yes, muscle relaxers.

18 MR. GLUEK: I have nothing further.

19 RE-EXAMINATION

20 BY MS. PENNINI:

21 Q. Following your November, 2003 conversation with
22 Mr. Harrington in which you discussed the filing of
23 the grievance, did he ever speak to you regarding any
24 issues as to the proper joint area committee where

JANEY ASSOCIATES

1 this grievance could be brought or could be heard?

2 A. No.

3 Q. He never mentioned anything to you about the
4 difference between Southern New England Joint Area
5 Committee and the Eastern Region Committee?

6 A. No. I think the case had been scheduled to be
7 heard in April, and I got a phone call saying that it
8 was rescheduled to be heard at the Eastern Region.

9 Q. Prior to the November, 2003 conversation and
10 letter to Mr. Harrington, did he ever have any
11 discussions with you concerning whether a grievance
12 could be brought concerning the failure to be called
13 off of a call list pursuant to the TNFINC/New Penn
14 agreement?

15 A. No.

16 Q. And I believe you previously indicated that you
17 are awaiting surgery on your knee?

18 A. Yes.

19 Q. Is it the left or the right knee?

20 A. Right knee.

21 Q. And you said that you continued with the
22 insurance benefits for a year following your injury,
23 is that correct?

24 A. My pension was paid for a year, I m not sure

JANEY ASSOCIATES

1 about my insurance. It was 1987, quite some time so I
2 don t recall.

3 Q. You do not recall whether you had any health
4 insurance benefits?

5 A. I did for a period of six months, I know.

6 Q. So you are sure you had it for six months but --

7 A. Yes.

8 Q. -- you may have had it for a longer period?

9 A. Yes.

10 Q. During the period under which you were positive
11 that you had insurance coverage did you have any
12 surgeries to your knee?

13 A. No.

14 Q. Did you have any surgeries to your back?

15 A. No.

16 Q. Did you have any surgeries on the herniated disc
17 in your neck?

18 A. No.

19 Q. At that time had any of the doctors recommended
20 surgeries on the herniated disc in your neck?

21 A. I don t believe so, nope.

22 Q. What about the herniated disc in your back?

23 A. No.

24 Q. And any recommendation of surgery on the torn,

JANEY ASSOCIATES

1 I m sorry, is it a ligament or a torn tendon in your
2 knee?

3 A. Ligament.

4 Q. Did the doctors recommend any surgery concerning
5 the torn ligament in your knee?

6 A. Not at that time.

7 Q. When did you first become aware that you would
8 need surgery on the ligament in your knee?

9 A. Oh, I can t be sure, positively sure.

10 Q. Can you give me an approximate time? Was it
11 during the 1980's?

12 A. I honestly don t remember. I don t know.

13 Q. Was it during the first half of the 1990's?

14 A. Yes.

15 Q. Do you recall if it was in 1990?

16 A. No.

17 Q. Do you recall whether it was in 1991?

18 A. Nope.

19 Q. Is there any document that would help refresh
20 your memory concerning this fact?

21 A. I m not sure.

22 Q. Do you recall the name of the doctor who told
23 you you would need surgery on your knee?

24 A. Yes.

JANEY ASSOCIATES

1 Q. And what doctor was that?

2 A. Dr. Solomon.

3 Q. Do you have a first name for Dr. Solomon?

4 A. Alan.

5 Q. Where does Dr. Solomon practice?

6 A. Out of Leonard Morse in Natick.

7 Q. Is Leonard Morse a hospital?

8 A. Yes.

9 Q. Does he currently practice out of Leonard Morse
10 in Natick?

11 A. I m not sure of that.

12 Q. When was it that you would see Dr. Solomon?

13 A. Dr. Solomon operated on my shoulder.

14 Q. Well when would you see Dr. Solomon concerning
15 your knee?

16 A. Periodically, when I was treating with him.

17 Q. And during what time period was that?

18 A. Right after my industrial accident.

19 Q. And what time did you stop seeing Dr. Solomon?

20 A. Oh, again, I can t be sure.

21 Q. Is there anything that would help you as to when
22 you stopped seeing Dr. Solomon?

23 A. Probably when the insurance company stopped
24 paying.

JANEY ASSOCIATES

1 Q. And you also had a rotator cuff injury, is that
2 correct?

3 A. Yes.

4 Q. And you had surgery concerning this injury?

5 A. Yes.

6 Q. When did you have that surgery?

7 A. 89, 1990 maybe.

8 Q. I m sorry, in 1989, is that what you said?

9 A. 89 or 90, somewhere thereabouts.

10 Q. And was this surgery performed by Dr. Solomon?

11 A. Yes.

12 Q. And where was it performed?

13 A. On my left shoulder.

14 Q. I m sorry, the location of the hospital?

15 A. Natick.

16 Q. Is it at the Leonard Morse Hospital in Natick?

17 A. Yes.

18 Q. Did you also see Dr. Solomon concerning your
19 knee?

20 A. Yes.

21 Q. When did you stop seeing Dr. Solomon concerning
22 your knee?

23 A. I don t recall.

24 Q. Did you continue to see Dr. Solomon concerning

JANEY ASSOCIATES

1 your knee after you stopped seeing him concerning your

2 rotator cuff injury?

3 A. Like I said, the insurance company did not pay
4 the bills so therefore he wouldn't see me.

5 Q. Do you know when the insurance company stopped
6 paying the bills to Dr. Solomon?

7 A. They still haven't paid him.

8 Q. But do you recall when they stopped paying the
9 bills?

10 A. They never paid him.

11 Q. When did you begin seeing Dr. Solomon?

12 A. Sometime shortly after the accident.

13 Q. So you began to see Dr. Solomon in about 1987,
14 is that correct?

15 A. 1988.

16 Q. Do you recall what month you had your rotator
17 cuff surgery?

18 A. No.

19 Q. Is there anything that would help you remember
20 when you had this surgery?

21 A. Not offhand.

22 Q. How soon after you had your surgery did you stop
23 seeing Dr. Solomon?

24 A. Six months maybe.

JANEY ASSOCIATES

1 Q. Do you recall if your surgery was in the summer?

2 A. No.

3 Q. Winter?

4 A. I don t remember.

5 Q. Do you currently have any limitations concerning
6 your rotator cuff injury, physical limitation?

7 A. Yes, it still bothers me.

8 Q. You said it still bother you, do you take any
9 medication concerning the pain of your rotator cuff?

10 A. Yes.

11 Q. And what medications are those?

12 A. Motrin, Advil.

13 Q. Have you seen any doctor for this injury since
14 you stopped seeing Dr. Solomon?

15 A. No.

16 MS. PENNINI: That s all I have.

17 MR. LATHROP: Well I am going to take a
18 break to decide whether or not I am going to have any
19 questions.

20 (A brief recess was taken)

21 EXAMINATION

22 BY MR. LATHROP:

23 Q. Mr. Goulet, what date is today?

24 A. October 4th, 2005.

JANEY ASSOCIATES

1 Q. Is discovery over in this case?

2 A. No.

3 Q. Is discovery with regard to the union over in
4 this case?

5 A. No.

6 Q. As of the time that the APA decision was issued
7 were you receiving Worker s Compensation benefits?

8 A. No.

9 Q. You were off Worker s Compensation by the time
10 of the APA decision?

11 A. Yes.

12 Q. As of the time of the APA decision were you
13 under the active care of any physicians for your
14 Worker s Compensation injuries?

15 A. Nope.

16 Q. At anytime after March 1st, 2002 did you receive
17 a call from New Penn to go to work?

18 A. No.

19 Q. If you had received a call from New Penn at
20 anytime after March 1st, 2002 to go to work, what
21 would you have done?

22 MR. GLUEK: Objection.

23 THE WITNESS: I would ve made every effort
24 to go to work and get clearance from the doctors, had

JANEY ASSOCIATES

1 they called.

2 MR. LATHROP: Thank you. I have nothing
3 else.

4 (Whereupon, the deposition in the above-
5 entitled matter was concluded at 12:45 p.m.)
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JANEY ASSOCIATES

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

I, Michael C. Janey, a Massachusetts Verbatim Court Reporter and Notary Public duly commissioned and qualified in and for the Commonwealth of Massachusetts, do hereby certify that there came before me on the 4th day of October, 2005, at 10:05 a.m., the person hereinbefore named, who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon examined under his oath and his examination reduced to typewriting under my direction; and that the deposition is a true record of the testimony given by the witness.

I further testify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 15th day of October, 2005.

My Commission expires on
October 28, 2005.

Michael C. Janey, CR, Notary Public

JANEY ASSOCIATES

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I have read the foregoing transcript of the testimony and the same contains a true and accurate recording of my answers given to the questions therein set forth.

Signed under the pains and penalties of perjury.

Date

JANEY ASSOCIATES

ERRATA SHEET

DEPONENT'S NAME CRAIG S. GOULET SR.
DATE of DEPOSITION

PAGE 11 line 6 READS, YES

SHOULD READ, YES BUT the DATE
of the letter WAS FEBRUARY 6th 1987

PAGE 12 line 16 READS, YES.

SHOULD READ, YES BUT the DATE
WAS FEBRUARY 6th 1987.



THE 28 LINE 14 READS, ~~PERHAPS~~ I DO NOT KNOW
THOULD READ, YES HE DID.

THE 29 LINE 14 READS, NO I DON'T RECALL

THOULD READ, YES HE DID SAY I WAS BACK ON THE
SENIORITY LIST.

GE 66 LINE 12 READS, 15 YEARS.

THOULD READ, 17 YEARS.

IN 70 LINE 16 READS, I'VE GOT SOME OUTSTANDING ISSUES
WITH REGARD TO MY INDUSTRIAL ACCIDENT.

THOULD READ, I'VE GOT SOME OUTSTANDING ISSUES WITH
REGARDS TO MY INDUSTRIAL ACCIDENT. IF I WAS
ABLE TO RESOLVE THOSE ISSUES, NEW PENN WAS
OBLIGATED UNDER THE CONTRACT AND THE A.D.A. TO
PROVIDE LIGHT DUTY WORK OR A REASONABLE ACCOMMODATION
TO QUALIFIED INDIVIDUALS.

SHOULD READ, I KNOW UNDER SOCIAL SECURITY ADMINISTRATION GUIDE LINES I COULD HAVE TRIED TO RETURN TO WORK HAD I BEEN GIVEN THE OPPORTUNITY.

PAGE 74 LINE 14 READS. I DON'T KNOW.

SHOULD READ, I KNOW IF NEW PENN CALLED AND OFFERED ME A DRIVING JOB, SOCIAL SECURITY WOULD HAVE ALLOWED ME TO TRY AND RETURN TO WORK.

PAGE 76 LINE 14 READS, NO

SHOULD READ, YES

PAGE 80 LINE 7 READS, NOPE

SHOULD READ, I KNOW BETWEEN MARCH 1ST 2002 AND - MARCH 30, 2003, IF NEW PENN CALLED I WOULD HAVE TRIED TO WORK 30 DAYS.

PAGE 80 LINE 11 READS, NO

SHOULD READ. WHAT I KNOW IS NEW PENN DID NOT CALL BETWEEN MARCH 1ST 2002 AND MARCH 30, 2003, AND IF THEY HAD CALLED I WOULD HAVE TRIED TO WORK 30 DAYS IN A TWO MONTH PERIOD.

SHOULD READ, YES. I RECALL MR. CARNES TELLING ME DURING THIS CONVERSATION WHEN HE TOLD NEW PENN THAT I WAS IN FACT ON THE A.P.A. SENIORITY LIST, NEW PENN TOLD MR CARNES YES HE'S ON THE SENIORITY LIST BUT HE IS COLLECTING WORKMANS COMPENSATION. AND MR CARNES TOLD NEW PENN THAT I WAS NOT COLLECTING WORKMANS COMPENSATION AT THAT TIME. THEN MR. CARNES ASKED ME, CRAIG WHAT WILL YOU DO IF NEW PENN CALLS YOU? AND I TOLD MR. CARNES AT THAT TIME TELL NEW PENN TO CALL ME THEN WE WILL ALL KNOW WHAT I WILL DO.

PAGE 88 LINE 12 READS, NOPE

SHOULD READ, YES, SEND ME A COPY OF THE GRIEVANCE.

PAGE 91 LINE 18 READS, I DONT KNOW THAT.

SHOULD READ, I KNOW MR CARNES SHOWED NEW PENN THE SENIORITY LIST WITH MY NAME ON IT

PAGE 92 LINE 10 READS, NOPE

SHOULD READ, YES, I RECALL ACTUALLY MEETING WITH MR. HARRINGTON IN PERSON AT THE UNION HALL TO DISCUSS THE PREPARATION OF THE CASE WITH THE GRIEVANCE COMMITTEE, AND AT THAT TIME I REMEMBER MR. HARRINGTON SUGGESTING THAT MAYBE I SHOULD WAIT UNTIL AFTER I HAD MY KNEE DONE BEFORE PURSUING THE GRIEVANCE AGAINST NEW PENN. I ACTUALLY OFFERED TO FIND ME ANOTHER JOB ALSO

SHOULD READ, YES I RECALL MR. HARRINGTON TELLING ME YOU KNOW IF YOU PUSH THIS GRIEVANCE AGAINST NEW PENN YOU WILL PROBABLY NEVER WORK IN THE FREIGHT INDUSTRY AGAIN. AND I SAID TO MR HARRINGTON YOU KNOW IF NEW PENN WOULD PUT ME ON THE SENIORITY LIST IN MY RIGHTFUL SPOT THEN WE WOULDN'T HAVE TO TAKE THE CASE TO THE COMMITTEE, AND MR HARRINGTON TOLD ME NEW PENN IS NOT GOING TO DO THAT.

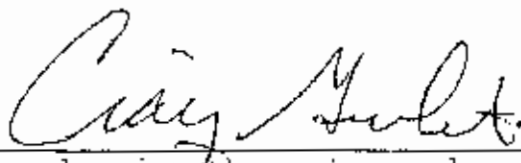
PAGE 95 LINE 8 READS, I DONT KNOW.

SHOULD READ. NO I DONT THINK THAT THE UNION JUST MADE A SIMPLE MISTAKE.

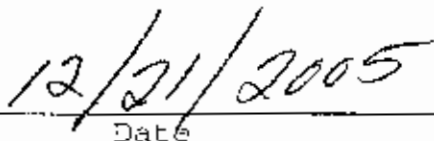
PAGE 95 LINE 14 READS, I DONT KNOW WHAT THEY DID.

SHOULD READ, YES, THE FACT THAT I CALLED MR. CARNES AND MR. HARRINGTON WHEN THE AGREEMENT TOOK EFFECT MARCH 1ST 2002, THE FACT THAT THE UNION PUT NEW PENN ON NOTICE WHILE THE AGREEMENT WAS IN EFFECT, WELL BEFORE THE GRIEVANCE WAS FILED WITH LOCAL 25 THESE FACTS ALONE SUGGEST THAT THIS WAS NO SIMPLE MISTAKE, NEVER MIND THE FACT THAT BOTH NEW PENN AND THE UNION SAID TIMELINESS WAS NEVER AN ISSUE IN THE PAST.

I have read the foregoing transcript of the testimony and the same contains a true and accurate recording of my answers given to the questions therein set forth.

A handwritten signature in cursive script, appearing to read "Craig Mulet", written over a horizontal line.

Signed under the pains and penalties of perjury.

A handwritten date "12/21/2005" written in cursive script over a horizontal line.

Date

JANEY ASSOCIATES

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Volume I
Pages 1 to 47
Exhibits 1 to 7

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

- - - - -x
:
CRAIG GOULET, :
Plaintiff, :
:
vs. : Civil Action
:
NEW PENN MOTOR EXPRESS, INC.; : No. 04-12577 JLT
and TEAMSTERS LOCAL 25, :
INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, :
Defendants. :
:
- - - - -x

DEPOSITION OF PAUL DUBIEL, a witness called
on behalf of the Plaintiff, taken pursuant to the
Federal Rules of Civil Procedure, before Ken A.
DiFraia, Registered Professional Reporter and Notary
Public in and for the Commonwealth of Massachusetts,
at the Offices of Scott A. Lathrop & Associates,
122 Old Ayer Road, Groton, Massachusetts, on
Tuesday, November 15, 2005, commencing at 1:18 p.m.
PRESENT:

Scott A. Lathrop & Associates
(by Scott A. Lathrop, Esq.)
122 Old Ayer Road, Groton, MA 01450,
for the Plaintiff.

Frantz Ward LLP
(by Carl H. Gluek, Esq.)
2500 Key Center, 127 Public Square,
Cleveland, OH 44114-1230, for the Defendant
New Penn Motor Express, Inc.

(Continued on Next Page)

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PRESENT: (Continued)
Dwyer, Duddy and Facklam, P.C.
(by Kathleen A. Pennini, Esq.)
Two Center Plaza, Suite 430, Boston, MA
02108-1804, for the Defendant Teamsters
Local 25, International Brotherhood of
Teamsters.
ALSO PRESENT: Craig Goulet
* * * * *

00003

I N D E X				
WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
PAUL DUBIEL				
BY MR. LATHROP	4		45	
BY PENNINI		43		

E X H I B I T S		
NO.	DESCRIPTION	PAGE
1	Dracut seniority list	16
2	Canton seniority list	18
3	Four-page document, Bates Nos. D024-D027	21
4	Multipage document, with fax cover sheet dated 2/22/02	22
5	List of names and addresses	23
6	Call list of casual workers	23
7	Letter to Charles Zaccaria from George Cashman dated 4/18/03, with attachments	33

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P R O C E E D I N G S

PAUL DUBIEL

a witness called for examination by counsel for the Plaintiff, having been satisfactorily identified by the production of his driver's license and being first duly sworn by the Notary Public, was examined and testified as follows:

MR. LATHROP: What stipulations would you like, Mr. Gluek, in this circumstance? How about 45 days for him to review the deposition? If he doesn't sign by then, it's deemed waived. Save objections, but for form?

MR. GLUEK: Agreed.

MR. LATHROP: And motions to strike?

MR. GLUEK: Yes.

MR. LATHROP: Anything else?

MR. GLUEK: No.

DIRECT EXAMINATION

BY MR. LATHROP:

Q. Afternoon.

A. Afternoon.

Q. Could you please state your full name and address for the record.

A. Paul Dubiel, 8 Comanche Circle, Billerica,

00005

1 Massachusetts.
2 Q. Is that a home or work address?
3 A. Home.
4 Q. Are you currently employed?
5 A. Yes.
6 Q. By whom are you employed?
7 A. New Penn Motor Express.
8 Q. What is your current job title?
9 A. Terminal manager.
10 Q. How long have you held that title?
11 A. February of 2002 -- no -- March of 2002,
12 actually.
13 Q. Are you a terminal manager for a specific
14 terminal?
15 A. Billerica, Massachusetts.
16 Q. Have you been the terminal manager for
17 Billerica, Massachusetts since March of 2002?
18 A. Yes.
19 Q. What are your responsibilities generally as
20 terminal manager?
21 A. Just overseeing the day-to-day operation of
22 the terminal.
23 Q. Are any of the terminals at that terminal
24 unionized?

00006

1 A. Yes.
2 Q. More than one union?
3 A. No.
4 Q. What is the union that represents --
5 A. Local 25.
6 Q. Of the Teamsters?
7 A. Yes.
8 Q. Has that been true throughout your duration
9 at New Penn Motor Express?
10 A. Yes.
11 Q. Is there a business agent for Local 25 that
12 has responsibility for the Billerica terminal?
13 A. Yes.
14 Q. Who is that?
15 A. Mark Harrington.
16 Q. Has that been true since March of 2002?
17 A. No.
18 Q. When did Mr. Harrington, according to your
19 recollection, begin as the business agent
20 responsible for the Billerica terminal?
21 A. I would have to say sometime during 2003,
22 late 2003.
23 Q. Who was the business agent, if anyone,
24 prior to Mr. Harrington?

00007

1 A. William Carnes.
2 Q. Was he the business agent covering the
3 Billerica New Penn terminal since March 2002 through
4 late 2003?
5 A. Yes.
6 Q. Did you know Mr. Harrington prior to late
7 2003?
8 A. Yes.
9 Q. Did you know Mr. Carnes prior to March
10 2002?
11 A. No.
12 Q. Where did you work, if at all, prior to
13 becoming terminal manager at New Penn in March of
14 2002?
15 A. APA Transport.
16 Q. What was your date of hire?
17 A. June of '76.
18 Q. What was your original position?
19 A. I started off as a driver.
20 Q. How long did you remain a driver?
21 A. 12 years.
22 Q. So sometime in approximately '88?
23 A. Yes.
24 Q. What position did you assume then with APA

00008

1 Transport?
2 A. Supervisor.
3 Q. Where were you a supervisor?
4 A. New Jersey.
5 Q. How long did you remain a supervisor in New
6 Jersey?
7 A. Two years.
8 Q. Then what happened?
9 A. I became a terminal manager in Buffalo, New
10 York.
11 Q. How long did you remain a terminal manager
12 in Buffalo, New York?
13 A. I believe it was 12 years -- no. It was
14 about 10 years.
15 Q. Okay, let's say approximately ten years.
16 A. Right.
17 Q. What was your next position after terminal
18 manager in Buffalo, New York?
19 A. I was a terminal manager in Dracut,
20 Massachusetts.
21 Q. From when to when were you the terminal
22 manager in Dracut, Massachusetts, as best you can
23 recall?
24 A. About a year and a half. The dates I'm off

00009

1 on a little bit. I want to say it was around 2000,
2 until the later part of 2000 -- '99 to 2001 maybe,
3 latter part of 2001.
4 Q. Was that the last position you held with
5 APA Transport?
6 A. No.
7 Q. Let me ask you this way. When did you stop
8 being the terminal manager in Dracut?
9 A. November of 2001.
10 Q. What position did you then hold?
11 A. Terminal manager in Canton, Massachusetts.
12 Q. I take it you began that in 11/01?
13 A. Yes.
14 Q. That ended when?
15 A. February of 2002.
16 Q. Did you go straight from being the terminal
17 manager in Canton for APA Transport to being the
18 terminal manager in Billerica for New Penn Motor
19 Express?
20 A. Yes.
21 Q. When you were the terminal manager in
22 Canton, Massachusetts, were any of your employees
23 unionized?
24 A. Yes.

00010

1 Q. Which union?
2 A. Local 25 Teamsters.
3 Q. Was there a business agent assigned to the
4 Canton terminal?
5 A. Yes.
6 Q. Who was that?
7 A. Mark Harrington.
8 Q. When you were the terminal manager in
9 Dracut, Massachusetts, was Local 25 representing
10 employees there?
11 A. Yes.
12 Q. Was there a business agent?
13 A. Yes.
14 Q. Who was that?
15 A. Mark Harrington.
16 Q. Did you know Mr. Harrington prior to
17 becoming the terminal manager in Dracut
18 Massachusetts?
19 A. No.
20 Q. Was the terminal in Buffalo, New York
21 unionized?
22 A. Yes.
23 Q. What was the --
24 A. Local 375 Teamsters.

00011

1 Q. When you were the terminal manager for
2 Dracut, did you have seniority lists for your
3 drivers?
4 A. Yes.
5 Q. Let me restate that. Did you have
6 seniority lists that covered also dock workers?
7 A. There was one seniority list.
8 Q. One seniority list?
9 A. Right.
10 Q. Let me back up. Local 25 represented
11 drivers and dock workers in Dracut?
12 A. They do, yes.
13 Q. Local 25 represented drivers and dock
14 workers in Canton?
15 A. Yes.
16 Q. And in Billerica?
17 A. Yes.
18 Q. Going back, in Dracut, there was one
19 seniority list for all unionized employees?
20 A. That's correct.
21 Q. Whether you be a driver or a dock worker,
22 correct?
23 A. Correct.
24 Q. During your tenure in Dracut, which persons

00012

1 or entities had the responsibility for compiling a
2 seniority list?
3 A. Corporate office.
4 Q. Of APA Transport?
5 A. Yes.
6 Q. Where was the corporate office when you
7 were in Dracut?
8 A. North Bergen, New Jersey.
9 Q. I take it you received from the corporate
10 office then these seniority lists?
11 A. Yes.
12 Q. How were they delivered to you?
13 A. By truck mail.
14 Q. Did you in any way distribute or post these
15 seniority lists?
16 A. Yes. One had to be posted in the drivers'
17 room.
18 Q. Did you send a copy of these seniority
19 lists to any representative of the union as a matter
20 of practice?
21 A. Not from the local terminal, no.
22 Q. Did you have some understanding from some
23 other source these seniority lists were sent to the
24 union?

00013

1 A. Per the contact, they are to be sent. The
2 union is to have a copy of the seniority list.

3 Q. But at the terminal office, you did not do
4 that?

5 A. No.

6 Q. Do you have some understanding that it was
7 done from the corporate office?

8 A. I would have to believe it was, but I am
9 not sure.

10 Q. You are not sure?

11 A. No.

12 Q. Do you have any understanding of how
13 frequently these seniority lists were updated, the
14 ones that were posted?

15 A. Every six months.

16 Q. Was that pursuant to labor contract, if you
17 know?

18 A. I don't know that.

19 Q. But that was the practice that was
20 observed?

21 A. Yes.

22 Q. Did you observe that practice also in
23 Buffalo?

24 A. Yes.

00014

1 Q. The practice of getting from corporate the
2 seniority list, that was true when you were in
3 Canton, also?

4 A. Yes. Well, I was only in Canton four
5 months. I've never seen a seniority list come via
6 truck mail while I was there.

7 Q. But there was one there, correct?

8 A. There was one hanging in the drivers' room,
9 yes.

10 Q. That seniority list was already in
11 existence, if you will, before you reported to work
12 there?

13 A. Correct.

14 Q. What about your experience at New Penn at
15 Billerica, is there a seniority list for the union
16 employees at Billerica?

17 A. Yes.

18 Q. Let me backtrack. When you were at Canton,
19 the seniority list was limited to the union
20 employees at Canton?

21 A. That's correct.

22 Q. When you were in Dracut, the seniority list
23 was limited to the union employees at Dracut?

24 A. That's correct.

00015

1 Q. At Billerica, you have a unionized
2 seniority list, correct?
3 A. Yes.
4 MR. GLUEK: Objection. He as in New Penn?
5 MR. LATHROP: Yes.
6 A. Yes.
7 Q. You've only been at the Billerica terminal
8 as a New Penn terminal manager; is that correct?
9 A. Yes.
10 Q. In that capacity, you have seniority lists,
11 correct?
12 A. Yes.
13 Q. These seniority lists cover Local 25
14 employees who are based at the Billerica terminal,
15 correct?
16 A. Yes.
17 Q. Similarly, are these seniority lists
18 prepared at the corporate office?
19 A. Yes.
20 Q. Where's the corporate office for New Penn?
21 A. Lebanon, Pennsylvania.
22 Q. How frequently during your tenure at
23 Billerica have these seniority lists been updated?
24 A. About every three or four months.

00016

1 Q. Are they similarly posted someplace in the
2 terminal?

3 A. Similar to?

4 Q. You described, if I had understood it
5 correctly, when you were at APA Transport, that the
6 seniority lists were posted in the drivers' room, I
7 think you mentioned.

8 A. Yes. There is one posted in the drivers'
9 room for New Penn in Billerica, also.

10 Q. At New Penn, do you have any responsibility
11 for distributing to union representatives a copy of
12 the seniority lists?

13 A. No.

14 Q. Is it your understanding that the corporate
15 office has responsibility for sending copies of the
16 seniority lists to union representatives?

17 MS. PENNINI: Objection.

18 A. That's my understanding.

19 Q. If you know.

20 A. I'm assuming they do the same as I stated
21 to you before.

22 (Document marked as Dubiel

23 Exhibit 1 for identification)

24 Q. Mr. Dubiel, I'm showing you a document

00017

1 marked for purposes of this deposition as Exhibit
2 No. 1. This purports to be a one-page Dracut
3 seniority list.

4 The first question is have you seen this
5 precise document before?

6 A. No, I have not.

7 Q. Have you seen a document similar in format?

8 MR. GLUEK: I have told him not to disclose
9 anything attorneys have told him, but for the
10 preparation of this deposition, he certainly saw the
11 document.

12 MR. LATHROP: I'm certainly not inquiring
13 into any communications or the substance of any
14 communications he had with any attorney as far as
15 that goes.

16 Q. Mr. Dubiel, I'm really looking for your
17 understanding and recollection concerning
18 identification of documents, if you will, pre this
19 litigation.

20 A. Okay.

21 Q. So prior to this litigation, have you seen
22 any document in this format with regard to seniority
23 lists?

24 A. No.

00018

1 Q. So this format does not look like something
2 that was prepared, for example, by APA corporate?
3 MR. GLUEK: Objection.
4 MS. PENNINI: Objection.
5 MR. GLUEK: You can answer if you can.
6 A. I don't know.
7 Q. You have testified that you received while
8 at Dracut seniority lists for the Dracut terminal as
9 prepared by corporate, correct?
10 A. Yes.
11 Q. I'm asking you, were they in this format?
12 A. No.
13 Q. It's a different format than Exhibit 1?
14 A. Yes.
15 Q. Bear with me. In what way does the
16 seniority list you recall seeing at Dracut as
17 prepared by APA corporate a different format than
18 Exhibit 1?
19 A. All it would show is the employee's name
20 and seniority date.
21 Q. Nothing else?
22 A. Nothing else.
23 (Document marked as Dubiel
24 Exhibit 2 for identification)

00019

1 Q. Mr. Dubiel, I'm now showing you what was
2 marked as Exhibit 2 for identification. This
3 purports to be a Canton seniority list with the
4 heading "Local Union 25 November 2001."
5 Do you recognize this document?
6 A. (Examines document) No.
7 Q. Do you recognize this format?
8 A. Yes.
9 Q. What about the format do you recognize?
10 A. That it has the employee's name and
11 seniority date on it.
12 Q. When APA Transport prepared for its Dracut
13 or Canton terminals a seniority list, was this the
14 format that was used?
15 A. I don't know. I was not involved in
16 preparing the...
17 Q. But you saw the list both in Canton and in
18 Dracut, correct?
19 A. Yes, I have.
20 Q. Was it organized in this fashion?
21 A. Yes.
22 Q. It would have a name such as "Canton" or
23 "Dracut Seniority List" on the top?
24 A. Yes.

00020

1 Q. It would say, "Local Union 25," also with
2 the date?
3 A. Yes.
4 Q. It would list 1 through whatever by
5 seniority the unionized employees?
6 A. Yes.
7 Q. With their seniority dates?
8 A. Yes.
9 Q. So the format in Exhibit 2 is similar to
10 what you observed when you were the terminal manager
11 for APA Transport in Dracut or Canton; is that
12 correct?
13 A. Yes.
14 Q. But you don't recall whether or not you
15 have seen exactly this document before?
16 A. Yes.
17 Q. "This document" being Exhibit 2, correct?
18 A. Yes.
19 Q. When you were at APA Transport, did you
20 ever see any seniority lists prepared by someone
21 other than APA corporate?
22 A. No.
23 Q. I take it, therefore, that you never saw a
24 seniority list prepared by Local 25, for example?

00021

1 MR. GLUEK: Objection.
2 A. No.
3 Q. While you've been at New Penn Motor
4 Express, have you seen any seniority lists that were
5 prepared by anyone other than New Penn corporate?
6 A. No.
7 Q. Let me back up. I'm sorry for jumping
8 around so much.
9 Now I'm focusing again on APA Transport.
10 You testified you never saw any other seniority
11 lists other than those prepared by APA corporate,
12 but do you have any understanding or any information
13 as to whether or not any other entity like Local 25
14 prepared their own seniority lists?
15 A. No.
16 (Document marked as Dubiel
17 Exhibit 3 for identification)
18 Q. Mr. Dubiel, I'm showing you a document
19 that's been marked as Exhibit 3, which is a
20 four-page document that's been Bates stamped D024
21 through D027.
22 I'm going to ask you after you have had the
23 chance to look at it as to whether or not you have
24 ever seen that document before?

00022

1 A. (Examines document) No, I have not.

2 Q. Have you ever seen a document in this
3 format?

4 A. No.

5 (Document marked as Dubiel
6 Exhibit 4 for identification)

7 Q. Mr. Dubiel, I'm showing you a multiple
8 paged document marked as Exhibit 4 for purposes of
9 this deposition. This is actually a multiple paged
10 document, and the cover sheet is a fax cover sheet
11 dated 2/12/02.

12 MS. PENNINI: It's 22.

13 Q. Sorry. It's 2/22/02. I'm going to ask you
14 about some of the documents that are part of this.

15 I think you have already been shown the
16 second page of this document. I believe you already
17 testified you don't recognize that document or the
18 format; is that correct?

19 A. (Examines document) Yes.

20 Q. Would you now look at the third and fourth
21 pages, which is also marked on the bottom D19 and
22 D20. My first question is have you seen that
23 specific document before?

24 A. (Examines documents) No.

00023

1 Q. Are you familiar at all with that format?
2 A. No.
3 Q. For this document, the last two pages,
4 which they are stamped D021 and D022, have you seen
5 that document before?
6 A. (Examines document) No.
7 Q. Are you familiar at all with that format?
8 A. No.
9 (Document marked as Dubiel
10 Exhibit 5 for identification)
11 Q. Mr. Dubiel, I'm showing you what was marked
12 as Exhibit 5 to your deposition, which is a one-page
13 document. It appears to be a listing of names,
14 addresses and so forth.
15 Similarly, I'm going to ask you, have you
16 seen this document before?
17 A. (Examines document) No.
18 Q. Are you familiar with this format?
19 A. No.
20 Q. More specifically, you have not seen this
21 format when you were at the Canton location?
22 A. No.
23 (Document marked as Dubiel
24 Exhibit 6 for identification)

00024

1 Q. Mr. Dubiel, I'm now showing you what was
2 marked as Exhibit 6, which is also a document
3 listing apparently dates and names.
4 I would ask you if you have seen this
5 document before?
6 A. (Examines document) Yes.
7 Q. What is this document?
8 A. A call list for casual workers at New Penn
9 Motor Express.
10 Q. Do you have any recollection as to when you
11 first saw it?
12 A. The first day I walked into the terminal,
13 which was in March of 2002.
14 Q. That being the Billerica terminal?
15 A. Billerica.
16 Q. That's when you became the terminal
17 manager?
18 A. Correct.
19 Q. This document was already in existence?
20 A. Yes.
21 Q. Do you have any understanding as to who
22 prepared this document?
23 A. No.
24 Q. Do you have any understanding as to the

00025

1 reason why this document was created?
2 MS. PENNINI: Objection.
3 Q. I'll state it differently. How, if at all,
4 was this document used by your office?
5 A. If we needed extra help, we would start
6 from the top man and call down for work.
7 Q. Do you have any understanding as to what
8 the first column listed?
9 A. I have no idea what that was.
10 Q. The second column clearly is names?
11 A. That's correct.
12 Q. Names of APA casualties?
13 A. (No response)
14 Q. I'll restate the question. Those are names
15 of former APA employees who could be called as
16 casualties?
17 A. They were names of New Penn casualties.
18 Q. It's certainly your testimony, not mine,
19 but I will point to the bottom line that says, "To
20 all supervisors, here is the list of APA's casualties.
21 To avoid a runaround on anyone not available, have a
22 Teamster sign off as a witness." Do you see that
23 line?
24 A. (Examines document) Yes.

00026

1 Q. Just so we are talking about the same
2 thing, is this a list of the employees who formerly
3 were employed by APA Transport?
4 A. Yes.
5 Q. Who were on a list, a casual list for New
6 Penn?
7 A. Yes.
8 Q. Do you have any understanding as to how
9 these people got on this list?
10 A. None.
11 Q. The third column where it lists Canton and
12 sometimes in parenthesis Dracut, do you have any
13 understanding as to what that signifies?
14 A. The terminal that they were formerly
15 employed at.
16 Q. The Canton APA terminal, for example?
17 A. Right.
18 Q. In the next column is their telephone
19 number?
20 A. Right.
21 Q. The last column, I presume, is their Social
22 Security number?
23 A. Yes.
24 Q. When you first saw this document, were

00027

1 these signatures on the left-hand side already
2 there?
3 A. No.
4 Q. Do you know how those signatures came to be
5 there?
6 A. When we would call the employees for work,
7 the casuals for work, we would have a Teamster on
8 the phone with us to verify either acceptance or
9 pass.
10 Q. Do you know whose initials MB is, if that's
11 what it is?
12 A. I'm not sure at all.
13 Q. Were you present when any of these calls
14 were made?
15 A. Yes, on some days I was present.
16 Q. When these calls were made, who was the
17 union representative present?
18 A. Any dock worker that was available.
19 Q. Not limited to, for example,
20 Mr. Harrington?
21 A. No.
22 Q. How long did you maintain this list?
23 A. I want to say over a year.
24 Q. Do you know how far down the list calls

00028

1 were made?
2 A. No.
3 Q. Were calls made past Mr. Sullivan?
4 MR. GLUEK: Objection. If you know.
5 Q. If you know.
6 A. Yes, they were.
7 Q. Were calls made past Mr. Powell?
8 A. On some days they were, yes.
9 MS. PENNINI: Can we take a two-minute
10 break.
11 (Recess)
12 BY MR. LATHROP:
13 Q. Mr. Dubiel, we were looking at Exhibit 6.
14 To your knowledge, are there any names on this list
15 that New Penn never got to in terms of calling as
16 casual labor?
17 A. No.
18 Q. New Penn got down to even Mr. Levine?
19 A. Yes.
20 Q. To at least call him and ask him if he was
21 interested?
22 A. Yes.
23 Q. When you were at the Canton terminal, to
24 whom did you report?

00029

1 A. Bob Ritenberg.
2 Q. When you first moved to the Billerica
3 terminal, to whom did you report?
4 A. Bob Ritenberg.
5 Q. At New Penn, when you first moved over
6 there, what was Bob's title?
7 A. He didn't work for New Penn.
8 Q. I must have misstated it. When you became
9 the terminal manager at Billerica --
10 A. For New Penn?
11 Q. For New Penn.
12 A. Go ahead.
13 Q. -- to whom did you report?
14 A. John Luciani.
15 Q. What was his title?
16 A. Division vice president.
17 Q. Do you continue to report to the division
18 vice president?
19 A. Yes.
20 Q. Does John continue to be the division vice
21 president?
22 A. No.
23 Q. He's been replaced by someone?
24 A. Yes.

00030

1 Q. Who was he at least first replaced by?
2 A. Charles Zaccaria.
3 Q. When did that take place, that Charles took
4 over for John?
5 A. November 2002.
6 Q. As of November of 2002, where was Charles
7 based?
8 A. Billerica.
9 Q. Do you continue to report to Charles?
10 A. Yes.
11 Q. Is he still based in Billerica?
12 A. Yes.
13 Q. Are you familiar with the plaintiff in this
14 case, Craig Goulet?
15 A. No.
16 Q. When is the first time, if ever, prior to
17 this litigation that you heard his name?
18 A. Probably July or so of 2003.
19 Q. What were the circumstances in which you
20 heard his name in July 2003?
21 A. I received a grievance from Mark
22 Harrington.
23 Q. It was a grievance that involved
24 Mr. Goulet?

00031

1 A. Correct.
2 Q. Are you familiar with a person by the name
3 of "Doug Francey"?
4 A. Yes.
5 Q. He worked at the Canton facility, did he
6 not?
7 A. Yes.
8 Q. He was a member of Local 25?
9 A. Yes.
10 Q. He was also a steward for Local 25?
11 A. Yes.
12 Q. Did you ever have any conversations with
13 Mr. Francey about Mr. Goulet?
14 A. No.
15 Q. Did you ever have any communications
16 Mr. Francey concerning Mr. Goulet?
17 A. No.
18 Q. Do you recall having any communications
19 with Mr. Carnes concerning Mr. Goulet?
20 A. No.
21 Q. Do you recall having any telephone
22 conversations with Mr. Carnes concerning Mr. Goulet?
23 MR. GLUEK: Objection, asked and answered.
24 Regarding communications, he already said, "No."

00032

1 MR. LATHROP: I'm just being a little more
2 specific to see if it refreshes his memory.
3 A. No.
4 Q. Do you remember having any communications
5 with Mr. Carnes concerning an APA employee who was
6 not called by New Penn Motor Express?
7 A. No.
8 Q. Other than the grievance that you received
9 from Mr. Harrington, did you ever have any
10 communications with any Local 25 representatives
11 concerning an APA Transport employee complaining of
12 not being called by New Penn Motor Express?
13 A. No.
14 Q. Do you know a person by the name of "Dan
15 Schmidt"?
16 A. Yes.
17 Q. Who is Mr. Schmidt?
18 A. Vice president of labor for New Penn Motor
19 Express.
20 Q. Has he been in that title since March 2002?
21 A. Yes.
22 Q. Where's he based?
23 A. Lebanon, Pennsylvania.
24 Q. Is it fair to say that prior to the receipt

00033

1 in July of 2003 of the grievance from
2 Mr. Harrington, New Penn Motor Express did not call
3 Mr. Goulet for casual work?

4 MS. PENNINI: Objection.

5 A. I would have not called him, no.

6 Q. In fact, New Penn Motor Express never
7 called Mr. Goulet for...

8 A. Correct.

9 (Document marked as Dubiel
10 Exhibit 7 for identification)

11 Q. Mr. Dubiel, I'm now showing you what was
12 marked as Exhibit 7, which purports to be a letter
13 from George Cashman to Mr. Charles Zaccaria dated
14 April 18, 2003, along with attachments.

15 A. (Examines document) Okay.

16 Q. Do you see that document?

17 A. Yes.

18 Q. Have you seen any parts of that exhibit
19 prior to this litigation?

20 A. No.

21 Q. Did you ever have any communications
22 between yourself and Mr. Zaccaria concerning
23 Mr. Goulet?

24 A. No.

00034

1 Q. Did you ever have any communications
2 between yourself and Mr. Schmidt with regard to
3 Mr. Craig Goulet?

4 A. No.

5 Q. I believe you testified that your first
6 introduction to Mr. Goulet, if you will, occurred
7 via a grievance from Mr. Harrington in July of 2003?

8 A. Yes.

9 Q. Is that a different grievance than what is
10 the third page of Exhibit 7, or a different
11 document?

12 A. It looked different, yes.

13 Q. How did you come to receive this grievance
14 from Mr. Harrington?

15 A. U.S. Mail.

16 Q. What, if anything, did you do with this
17 grievance that you received by U.S. Mail from
18 Mr. Harrington?

19 A. Sent it to Dan Schmidt.

20 Q. Did you merely forward it on, or did you
21 add some sort of communication to that?

22 A. I just sent it in the truck mail to Dan.

23 Q. Did you have any further communications or
24 meetings with Mr. Harrington with regard to this

00035

1 grievance?
2 A. No.
3 Q. Did you have any further communications
4 with Mr. Schmidt with regard to this grievance?
5 A. No.
6 Q. Did you have any further dealings with this
7 grievance?
8 A. No.
9 Q. I'm going to pull out Exhibit 2. If I
10 recall correctly, you testified that that format was
11 the format used by APA Transport for its terminal
12 seniority list, correct?
13 A. Yes.
14 Q. And that that was the format that then was
15 posted in the drivers' room?
16 A. Yes.
17 Q. Did APA Transport post any health and
18 welfare remittance reports?
19 A. Yes.
20 Q. Where were those posted?
21 A. Drivers' room.
22 Q. Where were those documents created, as far
23 as you know?
24 A. At the corporate office, North Bergen, New

00036

1 Jersey.
2 Q. Did those remittance reports also identify
3 the Local members at the particular terminal?
4 A. Yes.
5 Q. Do you recall if those remittance reports
6 listed seniority?
7 A. I believe they were in seniority order, so
8 yes.
9 Q. As best you can recall, there were columns
10 on the remittance reports?
11 A. Yes.
12 Q. I take it there were names?
13 A. Yes.
14 Q. I'm talking about the health and welfare
15 form.
16 A. Right.
17 Q. There were names?
18 A. Right.
19 Q. Can you think of any other columns that
20 appeared on this report?
21 A. There were other columns on there that
22 showed, you know, how much -- whether they were
23 current or not on their health and welfare and
24 pension that the company provided to the union.

00037

1 Q. Did APA Transport also post pension
2 remittance reports?

3 A. I don't know that. That I don't remember
4 seeing.

5 MR. LATHROP: Let me take my five minutes.

6 (Recess)

7 BY MR. LATHROP:

8 Q. You testified that John Luciani was the
9 division vice president when you joined New Penn?

10 A. Yes.

11 Q. What were his duties as division vice
12 president?

13 A. I'm not sure what his duties were.

14 Q. Did he interact at all to your knowledge
15 with Local 25?

16 A. Yes.

17 Q. Was that part of his duties, to interact
18 with Local 25?

19 A. Yes.

20 Q. What was the nature of his interactions
21 with Local 25?

22 MS. PENNINI: Objection.

23 A. Usually just a grievance. You know, he
24 would handle a grievance.

00038

1 Q. Do you have any understanding as to whether
2 or not Mr. Luciani had any communications with
3 Mr. Carnes concerning Mr. Goulet?

4 A. I do not know that.

5 Q. Did Mr. Luciani perform any of the
6 functions of terminal manager?

7 MR. GLUEK: Objection. Over what time
8 period?

9 MR. LATHROP: While he was the division
10 vice president in Billerica.

11 A. No, not while I was there.

12 Q. Is Mr. Luciani still employed to your
13 knowledge by New Penn?

14 A. No, he's not.

15 Q. Do you have any understanding as to when
16 his employment with New Penn ended?

17 A. I believe I stated it was in November of
18 2002.

19 Q. You certainly stated that that's when he
20 was no longer division vice president. You're
21 saying now his employment ended at that time?

22 A. Yes.

23 Q. Do you have any understanding as to where
24 he works, if anyplace, now?

00039

1 A. No.
2 Q. Do you have any understanding as to where
3 his last place of residence is?
4 A. Rhode Island. That's all I know.
5 Q. You testified that you received by U.S.
6 Mail in July of 2003 the grievance from
7 Mr. Harrington, correct?
8 A. Correct.
9 Q. If need be we can mark this document, but
10 let me show you what is the Defendant's Response to
11 Plaintiff's First Set of Interrogatories to
12 Defendant New Penn Motor Express.
13 More specifically, I'm going to show you
14 Interrogatory No. 10, which inquires about a
15 grievance filed by Mr. Goulet. I will read to you
16 the answer. I will put the document in front of
17 you, but I'm going to read to you the answer that
18 was signed by --
19 MR. GLUEK: I believe the verification was
20 by Andy.
21 MR. LATHROP: I don't have the verification
22 in front of me.
23 Q. "The grievance was received by U.S. Mail on
24 or after April 18, 2003 at the Billerica terminal by

00040

1 Paul Dubiel. Mr. Dubiel discussed the matter with
2 Daniel Schmidt, and it was determined to be
3 untimely."

4 I just read the answer to Interrogatory
5 No. 10. Please feel free to read the full
6 interrogatory and the answer if you like. Once you
7 have done that, let me just ask you some things
8 about it.

9 A. (Examines document) Okay.

10 Q. Does that refresh your memory as to when
11 you received the grievance, or do you still recall
12 receiving it in July of 2003?

13 A. I couldn't say if it was April or July. It
14 was definitely in 2003. It was warm out. I assumed
15 it was July. It could have been April.

16 Q. Does that refresh your memory at all
17 concerning any communications between yourself and
18 Mr. Schmidt?

19 A. No.

20 Q. Similarly, Interrogatory No. 4 asks about
21 communications with regard to Mr. Goulet, and as
22 part of the answer -- well, I will read to you the
23 following sentence, and then you can review it.
24 Then I will ask you some questions about it.

00041

1 It says, "In addition, in approximately May
2 2003, Paul Dubiel asked William Carnes why the
3 grievance was filed against the defendant."

4 Again, the question was Interrogatory
5 No. 4, and this is the answer by New Penn Motor
6 Express to that interrogatory, which included the
7 part that I just quoted to you.

8 A. Okay.

9 Q. Does that refresh your memory regarding
10 communications with Mr. Carnes concerning
11 Mr. Goulet?

12 A. No, it does not.

13 Q. When you became the terminal manager in
14 Billerica, New Penn Motor Express did call for
15 casual labor some former APA employees, correct?

16 A. Yes.

17 Q. What was the basis for the Billerica
18 terminal to make a call to a particular former APA
19 employee?

20 A. Freight level.

21 Q. That was the need for more labor?

22 A. Right.

23 Q. But on the side of it, what standard or
24 process did New Penn Motor Express at the Billerica

00042

1 terminal use to decide which former APA employees it
2 would call for this work opportunity?
3 A. The list that we had. I don't know where
4 it is at this time, but we saw the call list.
5 Q. I want to be precise about this. This is
6 one of the documents that we had put in front of
7 you, correct?
8 A. That's correct.
9 Q. Is it fair to say that you as the terminal
10 manager in Billerica for New Penn Motor Express
11 relied upon Exhibit 6 to determine whom you would
12 call among the former APA employees for casual work
13 opportunities?
14 A. Correct.
15 Q. If somebody's name did not appear on this
16 document, you did not call them?
17 A. Right.
18 Q. Is it fair to say that Mr. Goulet's name
19 does not appear on Exhibit 6?
20 A. Correct.
21 Q. Even though he might have been a former APA
22 employee, because his name was not on Exhibit 6, you
23 did not call him?
24 A. Correct.

00043

1 MR. LATHROP: Let's take a short break.

2 (Recess)

3 MR. LATHROP: I have nothing further.

4 CROSS EXAMINATION

5 BY MS. PENNINI:

6 Q. I have a couple of quick questions.

7 You said you became terminal manager of APA
8 in Canton in approximately November of 2001; is that
9 correct?

10 A. Correct.

11 Q. Do you recall when in November you became
12 terminal manager?

13 A. Towards the end.

14 Q. Do you know who was terminal manager in
15 Canton prior to when you began?

16 A. John Conti.

17 Q. You mentioned there were certain lists that
18 would be hanging up in the drivers' room at the APA
19 facility in Canton. Do you know what other lists
20 were hanging up in the drivers' room?

21 A. No.

22 Q. But were there other lists that were hung
23 up in the drivers' room besides the seniority lists?

24 A. Yes.

00044

1 Q. If you could look again at Deposition
2 Exhibit No. 6, the call list. Once a person was
3 called off the call list, would they continue to
4 work for New Penn every day, or would they have to
5 be called?
6 A. They would have to be called from day to
7 day.
8 Q. When would someone go from being on the
9 call list to being on the New Penn seniority list?
10 A. After they would have triggered seniority
11 per the contract.
12 Q. Do you know whether any of the people
13 listed on here became eventually permanent employees
14 of New Penn?
15 A. Yes.
16 Q. Do you recall how many?
17 A. (Examines document) Nine.
18 Q. Nine in total?
19 A. Yes.
20 MS. PENNINI: Just give me a second. I'm
21 not sure if I have any additional questions.
22 (Pause)
23 MS. PENNINI: No further questions.
24 MR. GLUEK: No questions.

00045

1 REDIRECT EXAMINATION
2 BY MR. LATHROP:
3 Q. In response to a question asked by Attorney
4 Pennini, you counted nine persons that appear on
5 Exhibit No. 6 that became New Penn employees; is
6 that correct?
7 A. Correct.
8 Q. Could you point out the person who is on
9 this list, the person furthest down that became a
10 New Penn employee.
11 A. The last man on the list (indicating).
12 Q. Mr. Levine?
13 A. Yes.
14 MR. LATHROP: Thank you. I have no further
15 questions.
16 (Whereupon the deposition
17 was concluded at 2:34 p.m.)
18
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20
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1 C E R T I F I C A T E
2 I, PAUL DUBIEL, do hereby certify that I have
3 read the foregoing transcript of my testimony, and
4 further certify under the pains and penalties of
5 perjury that said transcript (with/without)
6 suggested corrections is a true and accurate record
7 of said testimony.
8 Dated at _____, this ____ day of _____,
9 2005.

10 _____
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1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)

3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 15th day of Nov.,
7 2005, at 1:18 p.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of his knowledge touching and
10 concerning the matters in controversy in this cause;
11 that he was thereupon examined upon his oath, and
12 his examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this ____ day of Nov.,
21 2005.

22 _____
23 Notary Public

24 My commission expires 4/3/09

NEW ENGLAND JOINT AREA GRIEVANCE COMMITTEE DECISION FORM

Established in accordance with the terms and conditions of the National Master Freight Agreement and the New England Supplemental Freight Agreement, entered into by and between the Local Unions and Carriers engaged in City Pickup and Delivery and/or Over-the-Road Freight Operations.

Teamster Local(s) No./Agent: 25 / M Harrington

CASE NO.: 87-404

Grievant: Craig Goulet

Employer: APA Transport Corp.

We, the undersigned parties to the National Master Freight Agreement and the New England Supplemental Freight Agreement hereby agree to submit the dispute to arbitration under the Rules of Procedure prescribed by the NE Joint Area Grievance Committee, by virtue of its authority, as set forth in Articles 7 and 8 of the National Master Freight Agreement and Articles 45 and 46 of the New England Supplemental Freight Agreement, the following:

Alleged violation of Article 47. Union seeks man to be returned to work with all lost wages, H, W and Pension. 3/01- Union request this case be placed back on the SNE JAC docket for hearing.

The undersigned further agree that a majority decision of the NE Joint Area Committee in the above dispute will be final, conclusive and binding with no appeal and, further, that neither party will attempt through any overt acts, to void the decision rendered. Failure to comply may result in economic action within the confines of Article 8 of the National Master Freight Agreement and Articles 45 and 46 of the New England Supplemental Freight Agreement.

Employer: APA Transport Corp.

Local Union(s): 15

Signed: B Trebour

Signed: M Harrington

This is the Official Award and Decision of the New England Joint Area Grievance Committee. Decision must be promptly complied with and all Monetary Awards must be paid in pay period for the week following receipt of Decision.

- DECISION -

The Panel in Executive Session, motion made, seconded and carried the Company's Point of Order was not upheld. The Panel after hearing the case, motion made, seconded and carried that upon submitting acceptable documentation to the Company of his ability to return to unrestricted duties, the grievant shall serve a ten (10) day suspension. Upon completion of the suspension he shall be reinstated to the seniority list in his original position.

DECISION DATE: 10/16/2001

EMPLOYER PANEL:

Scalzo

UNION PANEL:

Mundy

00001

Volume I
Pages 1 to 57
Exhibits 1 to 8

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

- - - - -x

:
CRAIG GOULET, :
Plaintiff, :
:
vs. : Civil Action
: No. 04-12577 JLT
NEW PENN MOTOR EXPRESS, INC.;
and TEAMSTERS LOCAL 25, :
INTERNATIONAL BROTHERHOOD O:
TEAMSTERS, :
Defendants. :
:

- - - - -x

DEPOSITION OF WILLIAM H. CARNES, a witness
called on behalf of the Plaintiff, taken pursuant to
the Federal Rules of Civil Procedure, before Ken A.
DiFraia, Registered Professional Reporter and Notary
Public in and for the Commonwealth of Massachusetts,
at the Offices of Scott A. Lathrop & Associates,
122 Old Ayer Road, Groton, Massachusetts, on
Thursday, September 8, 2005, commencing at
10:04 a.m.

PRESENT:

Scott A. Lathrop & Associates
(by Scott A. Lathrop, Esq.)
122 Old Ayer Road, Groton, MA 01450,
for the Plaintiff.

Frantz Ward LLP
(by Carl H. Gluek, Esq.)
2500 Key Center, 127 Public Square,
Cleveland, OH 44114-1230, for the Defendant
New Penn Motor Express, Inc.

(Continued on Next Page)

00002

PRESENT: (Continued)

Dwyer, Duddy and Facklam, P.C.

(by Kathleen A. Pennini, Esq.)

Two Center Plaza, Suite 430, Boston, MA

02108-1804, for the Defendant Teamsters

Local 25, International Brotherhood of

Teamsters.

ALSO PRESENT: Craig Goulet

* * * * *

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I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

WILLIAM H. CARNES

BY MR. LATHROP 5

BY MR. GLUEK 49

BY MS. PENNINI 54

* * * *

E X H I B I T S

NO. DESCRIPTION PAGE

Agreement between Teamsters National
Freight Industry Negotiating
Committee and New Penn Motor
Express, Inc., dated 2/13/02 12

Document to Local 25, among other
locals, from Teamsters National
Freight Industry Negotiating
Committee dated 2/14/02 16

Canton seniority list dated 11/01 18
Summary of tentative agreement 19

between TNFINC and NPME
Letter to Dan Schmidt from George
Cashman dated 2/28/02 20

Canton seniority list 20
Three-page document, including
grievance report 27

Letter to Great Members of Teamsters
Local 25 from William Carnes dated
4/03 44

00004

1 P R O C E E D I N G S

2 MR. LATHROP: Stipulations?

3 MS. PENNINI: The usual.

4 MR. LATHROP: Reserve all objections,
5 except as to form, and motions to strike until the
6 time of trial. I assume that's the usual.

7 MS. PENNINI: Yes.

8 MR. LATHROP: Are you representing
9 Mr. Carnes, by the way, for the purpose of this
10 deposition?

11 MS. PENNINI: No.

12 MR. LATHROP: Mr. Carnes, after the
13 deposition is over, a transcript will be prepared by
14 this gentleman. You have the right to read it and
15 make any corrections that you deem necessary and
16 then sign it in some form under oath.

17 Do you wish to exercise that right to read
18 and sign it?

19 As an aside, most people do read and sign
20 it. It's your right. The question is always put as
21 to whether or not people want to waive their right
22 to read and sign. Since you are here without
23 counsel, I have to put the question to you as to
24 whether or not you want to read and sign the

00005

1 deposition.

2 THE WITNESS: Yes, I do.

3 MR. LATHROP: For your information, you
4 have 30 days after the deposition is presented to
5 you to read it, sign it, and make any corrections.
6 We will talk about the logistics of how to
7 get it to Mr. Carnes in a bit.

8 Also, I assume we can waive the requirement
9 it's signed in front of a notary, that it's signed
10 under the pains and penalties of perjury?

11 MS. PENNINI: That's fine.

12 MR. GLUEK: Sure.

13 MR. LATHROP: Would you like any other
14 stipulations?

15 MS. PENNINI: No.

16 WILLIAM H. CARNES
17 a witness called for examination by counsel for the
18 Plaintiff, having been satisfactorily identified by
19 the production of his driver's license and being
20 first duly sworn by the Notary Public, was examined
21 and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. LATHROP:

24 Q. Good morning, sir.

00006

1 A. Morning.

2 Q. Could you please state your full name and
3 address for the record.

4 A. William Harold Carnes, 45 Greenwood Street,
5 Melrose, Massachusetts 02176.

6 Q. What is your date of birth, sir?

7 A. June 2, 1943.

8 Q. Would you briefly describe your educational
9 background, please.

10 A. High school, graduated in 1961.

11 Q. Where did you go to high school?

12 A. St. Mary's in Cambridge.

13 Q. What was your first full-time employment
14 after you graduated from high school?

15 A. United Shoe Machinery Corporation.

16 Q. At some point in time, did you work in the
17 trucking industry?

18 A. I did.

19 Q. When did you first start in the trucking
20 industry?

21 A. 1969, 1967 or 1969.

22 Q. What position did you hold in the trucking
23 industry as of that point in time?

24 A. I was a dock worker and driver.

00007

1 Q. At some point in time, did you become
2 associated with the Teamsters?

3 A. Yes, in 1969.

4 Q. What happened in 1969?

5 A. I joined the Teamsters. I was working in a
6 Teamster job. I became a member.

7 Q. At some point in time, did you become an
8 officer or steward for any Teamster locals?

9 A. I became a business agent in January of
10 1982.

11 Q. As a business agent, you were a business
12 agent for what local in the Teamsters?

13 A. Local 25.

14 Q. How long did you remain a business agent
15 for Local 25?

16 A. Almost 21 years.

17 Q. As a business agent for Local 25, were you
18 assigned responsibilities for certain employers?

19 A. Yes.

20 Q. How was it based, geography?

21 A. No. It was at the direction of the
22 president.

23 Q. As to which particular employees you had
24 responsibilities for?

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1 A. That's correct.

2 Q. As the business agent for Local 25, what
3 generally were your job duties?

4 A. Well, I had assignments for various
5 companies and various industries. I negotiated
6 their contracts. I handled their grievances and
7 arbitrations, and the everyday business of dealing
8 with these companies and with the members.

9 Q. As a business agent, what were your
10 responsibilities vis-a-vis the handling of
11 grievances?

12 A. To follow the guidelines of the contract
13 and to take grievances forward to a hearing and to
14 adjudicate them.

15 In some cases, you know, depending on the
16 relationship with the companies, you know, there
17 would be where time periods and time frames could be
18 extended by mutual agreement, and pretty often those
19 things did happen.

20 Q. Are you familiar with a company called
21 "APA"?

22 A. Yes.

23 Q. Did you ever have any responsibility as a
24 Teamsters business agent for APA?

00009

1 A. No.

2 Q. Are you familiar with a company called "New
3 Penn Motor Express"?

4 A. Yes.

5 Q. Did you ever have responsibility for New
6 Penn Motor Express?

7 A. Yes.

8 Q. Over what period of time did you have
9 responsibility for New Penn Motor Express?

10 A. From 1982 until 2003.

11 Q. At any point in time, did you hold any
12 other positions with the Teamsters, other than as a
13 business agent for Local 25?

14 A. Yes. I was elected vice president in 1991,
15 and business agent. I held both positions.

16 Q. Vice president of Local 25?

17 A. That's right.

18 Q. How long did you remain vice president of
19 Local 25?

20 A. Until 2003.

21 Q. Did you hold any other positions with the
22 Teamsters, whether it be Local 25 or any other
23 Teamster-related entity?

24 A. I'm not sure I understand the question.

00010

1 Q. For example, are you familiar with an
2 entity called the "Southern New England Joint Area
3 Committee"?

4 A. I am.

5 Q. Could you describe for the record what that
6 is.

7 A. It's a combined panel of employers and
8 Teamsters that gather together and hear grievances
9 as a committee, and yes, I was cosecretary on that
10 committee for four or five years.

11 Q. Over what period of time was this four to
12 five years that you were secretary for this
13 committee?

14 A. Going backwards to 2003, I was cosecretary
15 up until 2003, and I really don't recall when I took
16 over that position, but it was for four or five
17 years, and it may have been longer.

18 Q. Did you sit on any other, if I can call it
19 that, grievance committees other than the Southern
20 New England Joint Area Committee?

21 A. Yes. I sat as a member of the panel on the
22 Eastern Region Joint Area Committee.

23 Q. Did you hold any title other than member of
24 the panel?

00011

1 A. No.

2 Q. Over what period of time did you serve as a
3 member of that committee?

4 A. From around 1992 until around 2000 I guess.

5 Q. Was that an elected position or an
6 appointed position?

7 A. No. It was appointed by the general
8 president.

9 Q. When you were secretary to the Southern New
10 England Committee, was that an elected or appointed
11 position?

12 A. Appointed.

13 Q. By whom?

14 A. By the joint counsel.

15 Q. Did you hold any other positions during
16 your long tenure with the Teamsters?

17 A. I was a member of the Southern New England
18 Supplemental Negotiating Committee.

19 MR. GLUEK: I'm sorry, I didn't hear that.

20 THE WITNESS: I said I was a member of the
21 Supplemental Negotiating Committee.

22 Q. Over what period of time did you serve on
23 that committee?

24 A. From 1992 or 1993 until 2003.

00012

1 Q. Are there any other committees you can
2 recall that you sat on or any other positions you
3 held during your tenure with the Teamsters?

4 A. I was the chairman for the Advisory Council
5 on Workmen's Compensation for the State of
6 Massachusetts.

7 Q. Any others?

8 A. If there are, I don't remember.

9 Q. The last one, when you were chairman of
10 this advisory council, from when to when?

11 A. I would speculate it was from like 2005
12 until -- sorry -- 1995 until 2003. There were times
13 I was the co-chairman. It was something that I went
14 from management to union back and forth over various
15 periods of time. It was an appointed position by
16 the Governor.

17 Q. I'm going to have some documents marked
18 now. Then we can talk about them.

19 (Document marked as Carnes
20 Exhibit 1 for identification)

21 Q. Mr. Carnes, I'm showing you what was marked
22 for your deposition as Exhibit 1. This purports to
23 be an agreement between the Teamsters National
24 Freight Industry Negotiating Committee and New Penn

00013

1 Motor Express, Inc., dated February 13, 2002 and
2 Bates stamped D1 through D4.

3 Have you ever seen this document before?

4 A. Yes, I probably have seen it. As chairman,
5 I'm sure I got a copy of it.

6 Q. Did you participate in the negotiations
7 that led to Exhibit 1?

8 A. No.

9 Q. Did anyone to your knowledge or
10 understanding from Local 25 participate in those
11 negotiations that led to Exhibit 1?

12 A. No.

13 Q. Do you have any understanding as to who
14 from the Teamsters, outside of those listed on the
15 signature page, participated in these negotiations?

16 A. No.

17 Q. Did you see this document on or about
18 February 13, 2002?

19 A. Was that when it was negotiated?

20 Q. Sir, I'm just, quite frankly, looking at
21 the date on the very first page.

22 A. No. I didn't see this until after it was
23 signed, sealed and delivered.

24 Q. When was this agreement signed, sealed and

00014

1 delivered, as you recall it?

2 A. I really don't recall. What I do recall
3 was being notified by telephone by somebody that was
4 involved in these negotiations that APA was closing
5 down their operations and that there was an
6 agreement made and that we would be getting notified
7 about the agreement.

8 Q. Do you recall who it was that notified you
9 by telephone about that?

10 A. It was Carlos, and I think the last name is
11 Rodriguez.

12 THE WITNESS: Do you know Carlos from
13 Pennsylvania?

14 Q. Unfortunately, sir, this is your
15 deposition. You have to answer the questions.

16 MR. GLUEK: Ramos?

17 THE WITNESS: Ramos.

18 A. There you go, Ramos.

19 Q. Carlos Ramos?

20 A. Carlos Ramos.

21 Q. For the record, could you identify who
22 Carlos Ramos is.

23 A. To my knowledge, he was a business agent
24 with Local 776 in Harrisburg. He was working for

00015

1 the -- I think his title was director of the Eastern
2 Region, Dan Virtue. He was just being the messenger
3 for Mr. Virtue, according to his conversation with
4 me.

5 Q. Is it your understanding Mr. Virtue was
6 involved in the negotiations between the Teamsters
7 and New Penn Motor Express as it pertained to APA's
8 closing?

9 A. No, I don't know that he was.

10 Q. Nonetheless, Mr. Ramos was conveying
11 information?

12 A. He was conveying information that was given
13 to him by Mr. Virtue.

14 Q. Was that your first understanding that
15 indeed New Penn was in some fashion going to be
16 looking towards APA employees for possible
17 employment?

18 A. No. That was my first knowledge of the
19 fact that APA was closing down and that they were
20 negotiating something with APA, with New Penn and
21 APA, for New Penn to take over some of the business.

22 Q. In terms of the development of that
23 incident, what is the next thing that came to your
24 knowledge then?

00016

1 A. The next thing that I recall was that there
2 was an agreement between New Penn and the National
3 Freight Committee in regards to APA and the way it
4 was going to be handled, the employees and so on.

5 Q. Is that Exhibit 1?

6 A. To my knowledge, it is, yes.

7 Q. Is it your testimony you saw this, a
8 version of this with actual signatures on it?

9 A. You know, I don't recall if I did or not.

10 Q. Do you recall how the agreement between the
11 Teamsters and New Penn Motor Express came to your
12 attention?

13 A. I was notified by the people in Washington
14 that they made an agreement, between the company and
15 between the National Freight Committee.

16 MR. LATHROP: Let's mark this as the next
17 exhibit in line.

18 (Document marked as Carnes

19 Exhibit 2 for identification)

20 Q. Mr. Carnes, I'm showing you a document now
21 marked as Exhibit 2 for purposes of identification
22 in your deposition. This purports to be a two-page
23 document dated February 14, 2002 from the Teamsters
24 National Freight Industry Negotiating Committee to,

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1 among other locals, Local No. 25, regarding TNFINC's
2 tentative agreement with New Penn Motor Express.

3 Have you seen this document before?

4 A. (Examines document) I believe so.

5 Q. Is this the method whereby you were
6 provided a copy of the tentative agreement with New
7 Penn Motor Express?

8 A. I believe that's it.

9 Q. Do you have any recollection as to how you
10 received this particular document inasmuch as it's
11 addressed not to you personally but to Local 25 and
12 others?

13 A. No, I don't, but I have seen it. It may
14 have been left in my box, because anything that
15 would come in like that would go to the president's
16 office.

17 Q. Who was the president at that time?

18 A. George Cashman.

19 Q. Mr. Carnes, in this document, it talks
20 about in the middle of the first paragraph that
21 there should be a ratification vote by the APA
22 transport members. Do you see that reference?

23 A. (Examines document) Yes, I do.

24 Q. To your knowledge, was there a ratification

00018

1 vote by the APA transport members?

2 A. To my knowledge, there was, but I was not
3 involved in it.

4 Q. Who was the business agent at the time
5 responsible for APA transport members, the Local 25
6 business agent?

7 A. Mark Harrington.

8 Q. At some point in time, did you see APA
9 seniority lists?

10 A. I believe I did. They were forwarded to me
11 for the committee.

12 Q. Who forwarded to you APA seniority lists?

13 A. I really don't recall.

14 Q. Do you recall when it was forwarded to you?

15 A. No, I don't.

16 (Document marked as Carnes
17 Exhibit 3 for identification)

18 Q. Mr. Carnes, you've just been handed what's
19 been marked for identification in this deposition as
20 Exhibit 3. This purports to be a Canton Seniority
21 List, Local Union 25, November 2001. Have you ever
22 seen this document before?

23 A. I have seen seniority lists for years. I
24 can't say that I have seen this particular one, but

00019

1 I probably have.

2 Q. I take it, therefore, you could not specify
3 any particular time when you saw this document?

4 MR. GLUEK: Objection.

5 A. Not really.

6 Q. Can you tell me when you saw this document?

7 MR. GLUEK: Objection.

8 A. During that time frame after this whole
9 thing took place. I don't know particularly when,
10 but it was during that time.

11 (Document marked as Carnes

12 Exhibit 4 for identification)

13 Q. Mr. Carnes, you've now been handed what was
14 marked as Exhibit 4, which purports to be a summary
15 of the tentative agreement between TNFINC and NPME
16 as a result of the closure of APA operations.
17 Have you seen this document before?

18 A. Yes, I believe I have.

19 Q. If you go back, sir, and look at Exhibit 2,
20 the second sentence there talks about a two-page
21 summary of the terms of New Penn Motor Express'
22 purchase proposal as it affects the Teamster
23 bargaining units.

24 To your knowledge, is Exhibit 4 the

00020

1 two-page summary referenced in Exhibit No. 2?

2 A. I would say probably, yes.

3 Q. Do you recall if you saw this summary in
4 February of 2002?

5 A. I don't know if it was February, but I did
6 see it. I don't recall exactly when.

7 (Documents marked as Carnes
8 Exhibits 5 for identification)

9 Q. Mr. Carnes I'm handing you two exhibits.

10 One is Exhibit 5, which purports to be a
11 February 28, 2002 letter from George W. Cashman to
12 Dan Schmidt, Vice President of Labor Relations.
13 Exhibit 6 appears to be a seniority list of
14 the Canton facility, Bates stamped D24 through D27.

15 Let me first ask you, sir, if you have seen
16 Exhibit 5, the February 28, 2002 letter?

17 A. I don't recall seeing it, no.

18 Q. Looking at Exhibit 6, do you recall seeing
19 that before?

20 A. I believe I have seen it. It's a combined
21 list; is that right?

22 Q. Sorry, did you say you have or have not
23 seen it before?

24 A. Sorry?

00021

1 Q. I didn't hear you clearly.

2 A. Yes, I believe I have seen it.

3 Q. Do you have any understanding as to who
4 prepared Exhibit 6?

5 A. No.

6 Q. I take it you did not prepare Exhibit 6?

7 A. No, I didn't.

8 Q. Are you familiar with the plaintiff in this
9 case, Craig Goulet?

10 A. Yes, I know him.

11 Q. When did you first meet or come to know
12 Mr. Goulet?

13 A. That's a tough one. I really don't recall
14 when we first met, but I have known him for a number
15 of years.

16 Q. How many years, approximately?

17 A. Well, I would say at least probably 12, 13
18 years.

19 Q. Do you recall whether or not Mr. Goulet
20 ever worked for an employer for which you had
21 responsibility as a business agent of Local 25?

22 A. I really don't.

23 Q. At some point in time, did you come to
24 understand that Mr. Goulet wished to be employed or

00022

1 be on a call list for New Penn Motor Express?

2 A. Via a telephone call at some point.

3 Q. Let's talk about the telephone call. Was

4 this a telephone call with Mr. Goulet?

5 A. Yes.

6 Q. I assume Mr. Goulet initiated the call?

7 A. That's right.

8 Q. Do you recall approximately when this phone

9 call took place?

10 A. I really don't. You know, I have to admit

11 I'm terrible with time frames. I really am.

12 Q. You need not apologize. We're just

13 inquiring as to what you do recall. That's all I'm

14 asking of you.

15 A. And you will get those answers.

16 Q. Do you recall where you took this phone

17 call?

18 A. I was in my office.

19 Q. For Local 25?

20 A. Right.

21 Q. For the record, where at least were the

22 offices of Local 25 at the time you took this phone

23 call?

24 A. You mean where they were?

00023

1 Q. Yes.

2 A. 544 Main Street in Charlestown.

3 Q. What do you recall about this telephone
4 conversation between yourself and Mr. Goulet?

5 A. He was concerned about being called to be
6 put back to work at New Penn. I believe he had been
7 out injured or something of that nature. He was
8 trying to get the case heard, you know, to get
9 himself put back on or -- I take that back a step.

10 I represented New Penn. He wanted to know
11 what I could do about it. I believe I called New
12 Penn.

13 Q. Well, let's stop and limit the conversation
14 for the time being to the telephone call between
15 yourself and Mr. Goulet.

16 A. Okay. He was concerned about being put
17 back to work.

18 Q. Had he previously worked in New Penn?

19 A. I don't know.

20 Q. But he was looking to be put to work at New
21 Penn, correct?

22 A. Yes.

23 Q. Do you know if it was pursuant to this
24 agreement between the Teamsters and New Penn and

00024

1 former APA employees?

2 A. I believe it was after the agreement.

3 Q. Okay, after the agreement. Do you have any
4 understanding as to whether or not Mr. Goulet was a
5 former APA employee?

6 A. To my knowledge, he was.

7 Q. So this telephone call took place sometime
8 after the agreement between the Teamsters and New
9 Penn?

10 A. That's right.

11 Q. But you are not certain exactly how long
12 after?

13 A. That's right.

14 Q. Do you recall anything else about this
15 telephone call you had between Mr. Goulet and
16 yourself?

17 A. Just the fact that he was concerned about
18 getting back to work. He wanted to exercise his
19 rights.

20 Q. Your understanding of those rights are
21 what?

22 A. The only understanding I had was what they
23 had negotiated between the National Freight Industry
24 Negotiating Committee and New Penn.

00025

1 Q. As represented by Exhibit 1?

2 A. Yes, right.

3 Q. Do you recall anything else about this
4 telephone conversation you had with Mr. Goulet?

5 A. No.

6 Q. As a result of receiving this call from
7 Mr. Goulet, what, if anything, did you do?

8 A. I spoke to New Penn on his behalf.

9 Q. Let's stop. Did you speak in person or by
10 telephone?

11 A. Telephone.

12 Q. Whom did you call?

13 A. Honest to God, I don't know. It was
14 whoever the manager was at the time. They changed
15 managers back then a couple of times. I forget the
16 guy's name, but I think it was John.

17 Q. When you say "manager," do you mean manager
18 of a particular terminal?

19 A. Yes, the terminal manager in Billerica.

20 Q. You telephoned the manager at the Billerica
21 terminal, and what did you say?

22 A. I believe I just told him, "I have an APA
23 employee who's looking to go back to work" blah,
24 blah, blah, "Here's the story. Tell me what you are

00026

1 going to do about it."

2 Q. Did you identify Mr. Goulet by name?

3 A. Yes.

4 Q. What, if anything, did the manager say in
5 response?

6 A. Well, you know, I recall this guy was kind
7 of a fresh bastard. He probably told me to go fuck
8 myself. That's all I recall.

9 Q. I take it you interpreted that to mean --

10 A. "No."

11 Q. No?

12 A. Pretty much.

13 Q. As a result of receiving this "no" from the
14 terminal manager, what, if anything, did you do next
15 with regard to Mr. Goulet?

16 A. I spoke to Mark Harrington.

17 Q. Did you speak to Mr. Harrington in person?

18 A. Yes.

19 Q. Where did this conversation take place?

20 A. In the union hall.

21 Q. Could you recount for us everything that
22 was said or done in this conversation between
23 yourself and Mr. Harrington.

24 A. Not really, but I know the gist of it would

00027

1 have been, because Mark was the representative for
2 APA, that "I got a call from one of your members,
3 and you need to deal with this," pretty much.

4 Q. Do you recall what response or reaction
5 Mr. Harrington had, if any?

6 A. Probably that he would take care of it.

7 Q. Do you recall anything else with regard to
8 Mr. Goulet and his desire to be employed or called
9 by New Penn Motor Express?

10 A. No, not really.

11 Q. Do you recall whether or not a grievance
12 was ever filed by Mr. Goulet?

13 A. Yes, I believe there was.

14 Q. What is your recollection of that?

15 A. I think he may have sent or brought the
16 grievance into me, and I forwarded it to New Penn.

17 (Document marked as Carnes

18 Exhibit 7 for identification)

19 Q. I'm showing you, Mr. Carnes, what was
20 marked for identification as Exhibit No. 7, which is
21 a three-page document. The first page purports to
22 be a letter from George W. Cashman to Mr. Charles
23 Zaccaria dated April 18, 2003.

24 The second page purports to be an envelope

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1 from Mr. Craig Goulet to Teamsters Union Local 25.

2 The third page purports to be a handwritten

3 Teamsters Union Local 25 grievance report.

4 Do you recognize any of these pages?

5 A. I recognize this as a grievance. I don't

6 recall seeing this specifically, but I probably did.

7 It is addressed to me at the Local. I forwarded it.

8 It would have went out under George Cashman's cover.

9 Q. Let's just talk about the general procedure

10 in existence in approximately April of 2003. If a

11 member of Local 25 wanted to file a grievance

12 against a company that you dealt with, what was the

13 procedure, as you understood it, for the employee to

14 do that?

15 A. He would go see a shop steward and initiate

16 a grievance. The shop steward would then meet with

17 the company and try to settle the grievance. If

18 that didn't happen, they would notify the business

19 agent.

20 Q. Which would be you?

21 A. Which would be me, right. Then I would get

22 involved in the grievance and ask for a hearing to

23 try and settle it. If we were not able to settle

24 it, we would then file it for hearing at the

00029

1 committee.

2 Q. Correct me if I'm wrong, but I think you
3 said you would get involved in it if it was not
4 settled by the union steward?

5 A. That's correct.

6 Q. Typically what was the nature of your
7 getting involved if it couldn't be settled by the
8 union steward?

9 A. The first thing I would do is to call the
10 company and attempt to straighten it out over the
11 telephone if possible. If not, then we would go
12 forward and schedule a meeting to sit down with the
13 grievant, the steward and the manager and attempt to
14 settle it at that point. If that was not possible,
15 we would go forward and either file it for a hearing
16 at the committee or not, depending on the issue.

17 Q. At what point in the process, if any, was
18 the grievance reduced to writing?

19 A. Well, let's start over. The grievant would
20 go to the steward to try to settle something. The
21 steward could talk to the manager. If the manager
22 told him to piss off, then he would reduce it to
23 writing.

24 Q. It would usually be in writing by the time

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1 it got to your stage; is that fair to say?

2 A. It would be in writing before it got to me
3 as a rule. That's why we have stewards.

4 Q. I believe you talked about contacting the
5 company representative and trying to resolve it.
6 Did you also forward the written grievance to the
7 company representative?

8 A. Sometimes, depending on where it came from
9 and how it was initiated.

10 Q. Looking at Exhibit 7, this purports to be a
11 letter from George Cashman to Charles Zaccaria. Did
12 you know who Mr. Zaccaria was as of April 2003?

13 A. Where he was?

14 Q. Do you know who he was?

15 A. I still know who he is. Yes, I know who he
16 was.

17 Q. Who was he?

18 A. I worked with him for over 20 years. He's
19 the manager at New Penn. He's also the vice
20 president.

21 Q. Was he the person that you normally sent
22 grievances to?

23 A. At that time, he was.

24 Q. "At that time" being around April 2003?

00031

1 A. Right.

2 Q. Do you recall having any conversations with
3 Mr. Zaccaria or communications with Mr. Zaccaria
4 relative to the grievance that's the third page on
5 Exhibit 7?

6 A. I don't recall it, no.

7 Q. Do you recall having any communications
8 with representatives from New Penn Motor Express
9 relative to Mr. Goulet's grievance as represented by
10 the third page on Exhibit 7?

11 A. I don't recall it. I did have conversation
12 with somebody up there about it because they
13 declined to move on it.

14 Q. Did you have a meeting with anybody at New
15 Penn Motor Express relative to this grievance?

16 A. I don't believe I did. I don't recall.

17 Q. But you believe you had some form of
18 communication with a representative of New Penn
19 Motor Express?

20 A. I spoke with somebody at New Penn. It
21 might have been Charley. I don't recall.

22 Q. But your recollection is that this
23 representative of New Penn Motor Express denied the
24 grievance?

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1 A. They were looking into it. You know, the
2 natural fallout was, "Oh, we'll look into it,"
3 "Okay." So they were looking into it. That's
4 probably where it left off, with me anyway.

5 Q. I believe earlier you stated that -- and
6 correct me if I'm wrong -- if you could not resolve
7 the grievance with the company representative, it
8 would then be filed with the committee?

9 A. Uh-huh.

10 Q. Is that yes?

11 A. Yes.

12 Q. What was the committee in the normal
13 process that the grievance would be filed with if it
14 couldn't be resolved between yourself and the
15 company representative?

16 A. You know, at this point I honestly could
17 not answer that only because your presentation of
18 Exhibit 1 locks it in TNFINC. Now, whether the
19 local area committee would have jurisdiction over
20 something like this, I'm not sure.

21 Q. Let's just talk about a general grievance,
22 not talking about something that may arise out of
23 Exhibit 1.

24 With regard to a general grievance, what

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1 was the committee with which you would file a
2 grievance if it couldn't be resolved between
3 yourself and the company representative?

4 A. It would depend on the articles involved in
5 the contract. Jurisdiction over articles is
6 determined by which article you file the grievance
7 out of.

8 Q. The Southern New England Joint Area
9 Committee, I think you described that as at least
10 one committee that heard grievances?

11 A. That's right.

12 Q. Do you recall what types of grievances it
13 had jurisdiction to hear?

14 A. It had jurisdiction under the supplemental
15 agreement, Articles 43 forward.

16 Q. Is it your testimony that you are uncertain
17 as to what committee would have jurisdiction over
18 grievances relative to Exhibit 1?

19 A. (Witness reviews document) Well, you know,
20 all I know is Exhibit 1 was negotiated by the
21 National Freight Committee. Beyond that, you took
22 it to -- boy, my mind slowed down -- the grievance,
23 the grievance itself.

24 Q. Exhibit 7?

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1 A. The grievance itself specifies Article 5
2 and all of Article 5 subsections, along with the
3 Northern supplemental freight agreement.
4 I'm not exactly sure which committee would
5 hold jurisdiction, whether it would have to go
6 through the Southern New England supplement or
7 whether it would have to go to Eastern region based
8 on Article 5 for a hearing before it could be heard
9 by the New England committee. I'm not sure which
10 way that would go.

11 Q. Do you have an understanding as to whether
12 or not there was a time limitation within which
13 grievances had to be filed with whatever the
14 appropriate committee was?

15 A. Yes.

16 Q. What was that time limitation?

17 A. Depends on when the grievance was -- when
18 you were notified that the grievance was denied.

19 Q. But following notification that the
20 grievance was denied, what is the time limit, as you
21 recall?

22 A. It depends on the case.

23 Q. Wasn't the time limitation in the contract
24 30 days?

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1 A. I believe 30 days, yes.

2 Q. Do you have any understanding as to whether
3 or not Mr. Goulet's grievance was filed with any
4 committee?

5 A. No, I don't.

6 Q. I think you told me the month, but do you
7 recall what your last day -- the last date was in
8 your role as a business agent for Local 25?

9 A. May 2, 2003.

10 Q. Did someone take over your role, shall we
11 say, on May 3rd of 2003, to your knowledge and
12 understanding?

13 A. Take over my role?

14 Q. Yes.

15 A. Which role? Would you be specific.

16 Q. As business agent for Local 25.

17 A. As a business agent?

18 Q. Yes.

19 A. I can't say exactly who took over my
20 positions at that time, but there were people that
21 were named as business agents following May 2nd.

22 Q. Who took over for New Penn?

23 A. I'm not sure. I don't know who has New
24 Penn now.

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1 Q. Prior to leaving office on May 2, 2003, did
2 you have certain grievance files that you were
3 responsible for?

4 A. Grievance files?

5 Q. Yes.

6 A. I suppose I had grievance files in my
7 drawer.

8 Q. Did you do anything to transfer
9 responsibility of those grievance files to anyone
10 else in Local 25?

11 A. No.

12 Q. Did anyone from Local 25 come to you in the
13 days and weeks before May 2, 2003 and ask for any of
14 your grievance files?

15 A. No.

16 Q. Did anyone from Local 25 and the days and
17 weeks before May 2, 2003 ask to be updated as to any
18 information pertaining to any outstanding
19 grievances?

20 A. No.

21 Q. Did you have a physical office at the
22 headquarters of Local 25 immediately prior to May 2,
23 2003?

24 A. Yes.

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1 Q. Did you have a desk?

2 A. Yes.

3 Q. Did you maintain at that desk copies of
4 active grievances?

5 A. No.

6 Q. Did you maintain anyplace copies of active
7 grievances?

8 A. I had a secretary. She maintained the
9 files.

10 Q. What was the name of that secretary as of
11 May 2, 2003?

12 A. Who was doing it back then... We changed
13 around pretty often. The only records they had were
14 those that were in the computer for filing cases and
15 so on. If there was an active case, there would be
16 a filing maintained in the front office there.
17 Somebody out there would have it.

18 Q. Let me make sure I understand what you are
19 telling me.

20 Local 25 headquarters had a computer system
21 or computer program that tracked active grievances;
22 is that what you are telling me?

23 A. No, I'm not telling you that at all. I'm
24 telling you that the secretary would file the case

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1 with the committee. She would have a physical copy
2 of the filing. She would have a hard copy of the
3 filing that she would keep with her records.

4 Let me explain something to you.

5 Q. Please.

6 A. As far as files for grievances or for
7 cases, it depends on the individual agent. There's
8 no written method for doing this, okay? There's no
9 actual way to describe how each and every agent does
10 it. They do it on their own.

11 We put our own cases together. We don't
12 hire lawyers to put our cases on for us. We do it
13 ourselves. When and how you do it is up to you.
14 Some agents have more cases than others. I didn't
15 have too many cases, in the end.

16 Q. In April of 2003, what was your methodology
17 in terms of handling the actual files relating to
18 active grievances?

19 A. If I had an active grievance, I would leave
20 it with my secretary. If I had to go meet with the
21 company, I would get the copies and I would go.
22 When the case was done and I was finished, that was
23 it.

24 Q. When you say your secretary, was this a

00039

1 personal secretary to you?

2 A. No, no. We had a pool of secretaries. It
3 could have been any one of them out in the front
4 office.

5 Q. How many secretaries do you recall were out
6 in the front office?

7 A. Five or six.

8 Q. Is it your testimony that it was the
9 responsibility of one of the secretaries to file a
10 grievance with the committee in a timely manner if
11 it was not resolved with the company?

12 A. It was the agent's responsibility. He
13 would give it to the secretary. She would file it
14 on his behalf.

15 Q. With regards to Mr. Goulet's grievance, the
16 one that's the third page attached to Exhibit 7, did
17 you give it to any secretary to file with the
18 committee?

19 A. No. I forwarded the grievance to New Penn
20 Motors Express.

21 Q. By forwarding it, are you referencing any
22 action other than the cover sheet that is the first
23 page of Exhibit No. 7?

24 A. No. I forwarded the grievance to New Penn

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1 Motor Express.

2 Q. Did you do anything else with regard to
3 that grievance?

4 A. Not at that time.

5 Q. At any time did you do anything further?

6 A. No.

7 Q. Did you ever get a response?

8 A. Not that I recall.

9 Q. Is it fair to say that as of the last date

10 that you served as a Local 25 business agent, May 2,
11 2003, you were still waiting for a response from New
12 Penn Motor Express to Mr. Goulet's grievance?

13 MR. GLUEK: Objection.

14 A. Yes.

15 Q. Other than the communications you have
16 already testified to, do you recall any other
17 communications or discussions with anyone else
18 pertaining to Mr. Goulet's situation and grievance?

19 A. Not really. I spoke to Mark Harrington, as
20 I stated earlier. I spoke to Craig Goulet I think
21 more than one time. There may have been another
22 occasion for a call. I spoke probably to George
23 Cashman. I forwarded the grievance. It went out
24 under George's cover.

00041

1 Q. Do you know a person by the name of "John
2 Murphy? "

3 A. Yes.

4 Q. Could you identify for the record who John
5 Murphy is.

6 A. Business agent of Local 25.

7 Q. Did you ever speak to Mr. Murphy about
8 Mr. Goulet's grievance?

9 A. I don't recall if I did.

10 Q. Do you know an RL Schaffer?

11 A. Yes.

12 Q. Who is Mr. Schaffer?

13 A. The company cosecretary to the committee.

14 Q. Do you ever recall speaking with
15 Mr. Schaffer about Mr. Goulet's grievance?

16 A. I believe I did, but I don't recall what
17 the conversation was.

18 Q. Do you recall if that was a face-to-face
19 conversation or a telephone conversation, or some
20 other form of communication?

21 A. It was probably face to face at a hearing.

22 Q. Do you recall having a hearing on
23 Mr. Goulet's grievance?

24 A. There was a hearing -- not on this

00042

1 grievance, no.

2 Q. Let me ask the question again. In terms of
3 Mr. Schaffer, do you recall having communications
4 then with him concerning this particular grievance?

5 A. I'm not sure if I did. I may have.

6 Q. Do you know a Dan Schmidt?

7 A. Yes.

8 Q. Who is Mr. Schmidt?

9 A. He's a vice president of New Penn.

10 Q. Do you recall whether or not you had any
11 communications with Mr. Schmidt pertaining to this
12 grievance by Mr. Goulet?

13 A. I may have.

14 Q. Do you have any particular recollection?

15 A. I really don't.

16 Q. Under the applicable labor agreement, is
17 there a time limit for an employee filing a
18 grievance?

19 A. Yes, there is.

20 Q. If you believed a grievance had been filed
21 by the employee or raised by the employee that was
22 untimely, would you forward it to the company?

23 A. It would depend on the circumstances.

24 Q. What circumstances would affect your

00043

1 decision?

2 A. Well, the company may have been aware of
3 what was going on with this grievance beforehand and
4 wouldn't exercise anything about it, and at some
5 point we would write up a grievance and say, "Hey,
6 come on, acknowledge it."

7 It depends on the relationship with the
8 agent of the company. Let's put it that way.

9 Q. What was your relationship like with the
10 agent of New Penn Motor Express?

11 A. I lasted there over 20 years, so it was not
12 too bad. We got along. We worked things out. We
13 had a pretty good relationship. We had an
14 understanding with each other.
15 I was a busy guy. The managers at New Penn
16 were busy guys. You know, they had to run a
17 business. There were times they couldn't just stop
18 with what business they were doing to sit down to
19 have a hearing. We would extend those time periods.
20 We mutually agreed to do that, too.
21 There were times things dragged on for
22 several months. Then we would sit down and finally
23 put it to bed, you know, whether we did it on their
24 time, my time, at the end of day or whatever, and

00044

1 keeping the manager there late, keeping the
2 employees over, we would do that.
3 That's the way the relationship went. It
4 was a pretty good relationship for a number of
5 years. I think I probably have met most of the
6 people in that company.

7 Q. When you forwarded this particular
8 grievance by Mr. Goulet, did you consider it to be
9 untimely?

10 A. No, I didn't. I was not aware of all the
11 facts in the case really. I believe there had been
12 a hearing prior, and I didn't know what the
13 situation was. All I knew is Mr. Goulet was
14 attempting to get back to work at New Penn Motor
15 Express based on the agreement.

16 (Document marked as Carnes
17 Exhibit 8 for identification)

18 Q. Mr. Carnes, I'm showing you Exhibit 8,
19 which purports to be a letter to the Great Members
20 of Teamsters Local 25 dated April of 2003,
21 purporting to be over your signature and
22 Mr. Cashman's.
23 I'm simply going to ask you, is that your
24 signature on the bottom right?

00045

1 A. Uh-huh.

2 Q. Is that yes?

3 A. No, it's not my signature, but I agreed to
4 have somebody sign it.

5 Q. What was your understanding of the status
6 of Mr. Goulet's grievance then as of the time -- as
7 of May 2, 2003?

8 A. I hadn't heard back.

9 MR. LATHROP: Let me take a few minutes to
10 see where we're at.

11 (Recess)

12 BY MR. LATHROP:

13 Q. With regard to Mr. Goulet's grievance that
14 was attached to Exhibit 7, do you have any
15 recollection that the company and the union agreed
16 to any extension of the timelines within which
17 actions had to be taken?

18 A. No, I don't.

19 Q. Is it your recollection that the time limit
20 under the collective bargaining agreement for filing
21 with the appropriate grievance committee is based
22 upon when the company receives -- sorry -- when the
23 union receives a response from the company?

24 A. That's always been my understanding.

00046

1 Q. We can mark this as an exhibit if need be,
2 but I would like to show you -- and I will certainly
3 show counsel at the table -- a section of the
4 National Master Freight Agreement and New England
5 Supplemental Agreement for the period of April 1,
6 1998 through March 31, 2003, Article 7, Section 2,
7 Paragraph 9.

8 On this copy it's actually highlighted.

9 I'll read it to you and ask you some questions about
10 it, Mr. Carnes.

11 "Unless mutually agreed by the local union
12 and the company, the local union shall file all
13 approved grievances with the appropriate grievance
14 committee or association for a decision no later
15 than 30 days after the date the local union receives
16 the grievance."

17 First, did I read that correctly?

18 A. Yes, you did.

19 Q. Was that your understanding, that the
20 obligation to file the grievance with the
21 appropriate committee was based on 30 days after the
22 local union received the grievance?

23 A. That's to file the case with the national
24 committee. Article 7 holds jurisdiction under the

00047

1 National Freight agreement.

2 This grievance was filed under Article 5,
3 which is the National Freight agreement, and also
4 Article 43, which is seniority. The Article 43
5 would probably supersede the National because it's
6 under the supplement and we were waiting to hear
7 back from the company before we took action.

8 Q. Can you show me where in this document
9 different time limits other than what I read would
10 be arguably applicable?

11 A. No, I can't.

12 Q. Why is that?

13 A. Because I don't think there are any. It's
14 by mutual agreement between the company and the
15 agent.

16 Q. Again, I'm not nearly as familiar with this
17 agreement as you may be, sir. Are you aware of in
18 terms of the processing of a grievance any other
19 section other than Article 7, Section 2 that
20 specifies the time limits within which grievances
21 such as Mr. Goulet's must be processed?

22 A. I can't think of any in the contract, but I
23 have not dealt with it for a few years either.

24 Q. I understand. Is there any source other

00048

1 than the contract that specifies the time limits for
2 filing grievances such as Mr. Goulet's?

3 A. The only other place I can think about
4 would be the rules of procedures under the
5 committees.

6 Q. Did the Southern New England Joint Area
7 Committee have its own rules of procedure?

8 A. Yes.

9 Q. Do you have any specific recollection of
10 those rules specifying time limits for filing
11 grievances with such a committee?

12 A. There were rules. I don't recall exactly
13 what they were.

14 Q. Do you have a recollection as to when you
15 received Mr. Goulet's grievance, again, that being
16 Page 3 of Exhibit 7?

17 A. Do I recall when I received it?

18 Q. Correct.

19 A. No.

20 Q. Is it fair to say you received it sometime
21 between April 7th and April 18, 2003?

22 A. I would say I received it before
23 April 18th because it was sent on.

24 Q. Do you have any understanding as to whether

00049

1 or not this grievance was docketed with any
2 committee by May 18, 2003?

3 A. No, I don't.

4 Q. Again, your tenure ended May 2, 2003?

5 A. That's right.

6 MR. LATHROP: I have no further questions.

7 CROSS EXAMINATION

8 BY MR. GLUEK:

9 Q. Sir, my name is Carl Gluek. I represent
10 the employer, New Penn.

11 Do you have any personal animosity against
12 Mr. Goulet?

13 A. No, I don't.

14 Q. Do you have any ill will towards him?

15 A. No, I don't.

16 Q. Do you have any prejudice towards him?

17 A. No, I don't.

18 Q. Do you have any desire to see him harmed in
19 any way?

20 A. No, sir.

21 Q. Are you aware of anybody at Local 25 that
22 has any animosity towards Mr. Goulet?

23 A. No, sir.

24 Q. Are you aware of anybody at Local 25 that

00050

1 has any prejudices against Mr. Goulet?

2 A. No, sir.

3 Q. Do you know of anybody at Local 25 that

4 would like to see ill will suffered upon

5 Mr. Goulet?

6 A. No, sir.

7 Q. With respect to the agreement, which has

8 been identified as Exhibit 1, is it your

9 understanding that the employees of APA had an

10 obligation to advise the union that they wanted to

11 be on this call list?

12 MR. LATHROP: Objection.

13 A. (No response)

14 Q. Do you know one way or the other?

15 A. I really don't.

16 Q. Do you know under the agreement, Exhibit 1,

17 that the union had an obligation to forward the

18 names of APA employees that wanted to be on a call

19 list?

20 A. Correct.

21 Q. Were you aware that under Exhibit 1, there

22 was a time period within which the union was to

23 forward those names?

24 MR. LATHROP: Objection.

00051

1 A. I believe so.

2 Q. Do you know if Mr. Goulet's name was ever
3 forwarded to New Penn under the timeline set forth
4 in Exhibit 1?

5 A. I don't know.

6 Q. Are you aware of a grievance that
7 Mr. Goulet had with his prior employer, APA?

8 A. I'm aware of it, yes, I am.

9 Q. Are you aware that it went to hearing?

10 A. Yes, I am.

11 Q. Were you a part of that hearing?

12 A. I was not a part of the hearing, but I was
13 there.

14 Q. You were physically there?

15 A. Yes.

16 Q. At the hearing, is the decision announced
17 then and there?

18 A. No.

19 Q. Were you ever aware of what the decision
20 was?

21 A. Yes.

22 Q. Am I correct in saying that the decision
23 was that "Upon submitting acceptable documentation
24 to APA of his ability to return to unrestricted

00052

1 duties, plaintiff shall serve a ten-day suspension"?

2 MR. LATHROP: Objection.

3 A. Yes, sir.

4 Q. Are you aware that that was the decision?

5 MR. LATHROP: Objection.

6 A. Yes, sir.

7 Q. And that the decision went on to say, "Upon
8 completion of the suspension, he shall be reinstated
9 to the seniority listed in his original position"?

10 MR. LATHROP: Objection.

11 A. Yes.

12 Q. Do you know if Mr. Goulet ever submitted
13 the acceptable documentation to APA of his ability
14 to return to unrestricted duties?

15 A. No, I don't.

16 Q. Do you know if Mr. Goulet ever served a
17 ten-day suspension?

18 A. No, I don't.

19 Q. Do you know if Mr. Goulet was ever returned
20 to the seniority list at APA?

21 A. No, I don't.

22 Q. You testified that you had a conversation
23 with John, last name unknown, who was a terminal
24 manager at New Penn?

00053

1 A. I believe it was John at the time, but I'm
2 not sure.

3 Q. Do you recall approximately when that was?
4 Was that around when the grievance was filed?

5 A. I don't remember.

6 Q. You don't remember one way or the other?

7 A. No.

8 Q. Do you know why John said, excuse me for
9 the expression, "Fuck you"?

10 MR. LATHROP: Objection.

11 A. That was his makeup.

12 Q. Do you know why he didn't agree with your
13 position?

14 MR. LATHROP: Objection.

15 A. No, I don't.

16 Q. Did he give any rationale?

17 A. No, he didn't.

18 Q. What did you discuss with John?

19 A. If it was John -- let's qualify that -- I
20 approached him with the idea that Mr. Goulet wanted
21 to be put on the seniority list in his rightful
22 spot, so and so forth. That was from the
23 conversation with Mr. Goulet.

24 All I did was follow up with that

00054

1 conversation and attempt to solve the mystery that
2 was going on.

3 I'm pretty sure it was John. That would be
4 his answer, yes.

5 Q. Was this after the time period that the
6 union was supposed to have forwarded the seniority
7 list to New Penn?

8 A. I don't know.

9 Q. You don't know one way or the other?

10 A. No.

11 Q. Do you have anything that would refresh
12 your recollection on that?

13 A. Not really.

14 MR. GLUEK: I have nothing further.

15 CROSS EXAMINATION

16 BY MS. PENNINI:

17 Q. Mr. Carnes, when you said that you were
18 unsure of Mr. Goulet's grievance because you were
19 uncertain of issues relating to a prior arbitration,
20 were you referring to the arbitration that
21 Mr. Gluek just questioned you about?

22 A. Uh-huh.

23 Q. What were you unsure of as related to that
24 prior arbitration?

00055

1 A. Well, I don't know what happened after the
2 arbitration, you know, whether the decision was
3 complied with or not. I don't know. I didn't know.

4 Q. If the decision had not been complied with,
5 do you believe that Mr. Goulet had a valid grievance
6 with New Penn?

7 MR. LATHROP: Objection.

8 A. If he didn't comply with the decision,
9 based on the rules of the committee, he would not
10 have a valid grievance.

11 Q. At the time you filed the grievance, were
12 you aware of whether he had complied with the terms
13 of the October 2001 decision?

14 A. I really wasn't, no.

15 MS. PENNINI: That's all I have.

16 (Whereupon the deposition
17 was concluded at 11:25 a.m.)

18

19

20

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22

23

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00056

1 C E R T I F I C A T E

2 I, WILLIAM H. CARNES, do hereby certify that I
3 have read the foregoing transcript of my testimony,
4 and further certify under the pains and penalties of
5 perjury that said transcript (with/without)
6 suggested corrections is a true and accurate record
7 of said testimony.

8 Dated at _____, this ____ day of _____,
9 2005.

10
11 _____
12
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00057

1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)

3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 8th day of Sept.,
7 2005, at 10:04 a.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of his knowledge touching and
10 concerning the matters in controversy in this cause;
11 that he was thereupon examined upon his oath, and
12 his examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this ____ day of
21 September, 2005.

22 _____
23 Notary Public

24 My commission expires 4/3/09

00001

Volume I
Pages 1 to 76
Exhibits 1 to 12

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

- - - - -x

:
CRAIG GOULET, :
Plaintiff, :
:
vs. : Civil Action
: No. 04-12577 JLT
NEW PENN MOTOR EXPRESS, INC.;
and TEAMSTERS LOCAL 25, :
INTERNATIONAL BROTHERHOOD O:
TEAMSTERS, :
Defendants. :
:

- - - - -x

DEPOSITION OF MARK A. HARRINGTON, a witness
called on behalf of the Plaintiff, taken pursuant to
the Federal Rules of Civil Procedure, before Ken A.
DiFraia, Registered Professional Reporter and Notary
Public in and for the Commonwealth of Massachusetts,
at the Offices of Scott A. Lathrop & Associates,
122 Old Ayer Road, Groton, Massachusetts, on
Wednesday, October 12, 2005, commencing at
10:15 a.m.

PRESENT:

Scott A. Lathrop & Associates
(by Scott A. Lathrop, Esq.)
122 Old Ayer Road, Groton, MA 01450,
for the Plaintiff.

Frantz Ward LLP
(by Carl H. Gluek, Esq.)
2500 Key Center, 127 Public Square,
Cleveland, OH 44114-1230, for the Defendant
New Penn Motor Express, Inc.

(Continued on Next Page)

00002

PRESENT: (Continued)
Dwyer, Duddy and Facklam
(by Kathleen A. Pennini, Esq.)
Two Center Plaza, Suite 430, Boston, MA
02108-1804, for the Defendant Teamsters
Local 25, International Brotherhood of
Teamsters.

ALSO PRESENT: Craig Goulet

* * * * *

00003

I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

MARK A. HARRINGTON

BY MR. LATHROP 5 61
73

74

BY MR. GLUEK 52 69

BY MS. PENNINI 58 72

73

* * * *

E X H I B I T S

NO. DESCRIPTION PAGE

1Memo to Local 25 and others dated 11
2/14/052Agreement between TNFINC and New 13
Penn Motor Express, Inc., dated
2/13/023Summary of agreement between TNFINC 14
and New Penn Motor Express, Inc.

4Employee list for Canton terminal 20

5Letter to Irene from George Cashman 22
dated 2/22/02, with attached list6Letter to Dan Schmidt from George 24
Cashman dated 2/28/02, with
enclosure

7Handwritten grievance dated 4/7/03 28

8Handwritten letter to Mark dated 31
7/25/03

00004

E X H I B I T S, Continued		
NO.	DESCRIPTION	PAGE
9	Southern New England Joint Area Committee prehearing information	33
1	Letter to Mark Harrington from Craig Goulet dated 11/24/03	35
1	Eastern Region Joint Area Committee grievance form dated 4/20/04	36
1	Letter to Gentlemen from Mark Harrington dated 7/22/04, with attachments	38
* * * *		

00005

1 P R O C E E D I N G S

2 MR. LATHROP: Same stipulations as with

3 Mr. Francey's deposition?

4 MS. PENNINI: Yes, read and sign, 45 days.

5 Save objections, except as to form, and motions to
6 strike.

7 MARK A. HARRINGTON

8 a witness called for examination by counsel for the
9 Plaintiff, having been satisfactorily identified by
10 the production of his driver's license and being
11 first duly sworn by the Notary Public, was examined
12 and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. LATHROP:

15 Q. Good morning, sir.

16 A. Morning.

17 Q. Could you please state your full name and
18 address for the record.

19 A. Mark Arthur Harrington.

20 Q. Your address, sir?

21 A. It's 86 Briarwood Drive, Hanover,
22 Massachusetts.

23 Q. What is your date of birth?

24 A. 4/28/54.

00006

1 Q. Are you a member of Local 25 for the
2 Teamsters?

3 A. Yes.

4 Q. When did you first become a member?

5 A. 1977.

6 Q. Under what circumstances did you become a
7 member?

8 A. I was employed by St. Johnsbury Trucking
9 Company in Cambridge, Massachusetts.

10 Q. How long were you employed by
11 St. Johnsbury in Cambridge?

12 A. Until 1991.

13 Q. What happened at that time?

14 A. I was elected into office, Teamsters
15 Local 25.

16 Q. What office were you elected into?

17 A. Trustee. I was appointed to be a field
18 representative and organizer.

19 Q. How long did you remain a trustee?

20 A. I remained a trustee until 2002. I was
21 also elected business agent in 1994. I served as a
22 trustee and as a business agent from 1994 until
23 2002.

24 Q. As of 1994, when you became a business

00007

1 agent, did you cease being a field representative
2 and organizer?

3 A. Yes, but the functions of the field
4 representative and the business agent are pretty
5 much the same. In 1991, I represented -- basically
6 I functioned as a business agent. It was just that
7 it was not an elected position. The trustee was an
8 elected position.

9 Q. I lost you. When you became a business
10 agent, was that an elected position?

11 A. I was elected to two positions, trustee,
12 then business agent.

13 Q. You remained a business agent through some
14 point in 2002?

15 A. Uh-huh.

16 Q. That's yes?

17 A. Yes.

18 Q. Did you have any positions with Teamsters
19 Local 25 thereafter?

20 A. I became the secretary treasurer.

21 Q. When did you become the secretary
22 treasurer?

23 A. 2002.

24 Q. Is that your current position?

00008

1 A. It is.

2 Q. What were your duties as a business agent
3 for Local 25?

4 A. I negotiated contracts, handled grievances,
5 arbitrations, et cetera.

6 Q. Were you assigned a certain geographical
7 area or certain employers?

8 A. Certain employers, certain crafts.

9 Q. Throughout your tenure as a business agent,
10 were you assigned to the same crafts, or did it
11 change?

12 A. It changes from term to term, depending on
13 people, you know, retiring within the organization,
14 reassignments by the principal officer.

15 Q. What crafts did you represent originally?

16 A. I represented the laundry division, I
17 represented healthcare, car rental, car haul,
18 building materials, tank haul, freight, public
19 sector, maintenance, oil, heating oil division,
20 office clerical, and whatever else I was assigned
21 to.

22 That's probably pretty much the gamut of
23 what we had.

24 Q. Are you familiar with a company called "APA

00009

1 Transport"?

2 A. Yes.

3 Q. Did you have any responsibility with regard
4 to APA Transport?

5 A. I took over for them as business agent I
6 think around 1994 because the fellow that handled
7 that retired. He was an APA employee, and then when
8 he came on to the job, he was assigned to APA. His
9 name is Ed Sheehan. When he retired as a field
10 representative, George Cashman assigned me over to
11 APA.

12 Q. How long did you continue to represent or
13 deal with APA?

14 A. Right up until the closure.

15 Q. Are you familiar with a company called "New
16 Penn Motor Express"?

17 A. Yes.

18 Q. Did you ever have any responsibilities with
19 regard to New Penn Motor Express?

20 A. Starting in 2002, May.

21 THE WITNESS: I guess Billy left in 2002,
22 right?

23 A. I'm just trying to get my years right.

24 Q. Are you referring to a time when

00010

1 Mr. Cashman left?

2 A. Yes.

3 Q. You said George?

4 A. Uh-huh.

5 Q. Is that yes?

6 A. Yes.

7 Q. You are saying at the time Mr. Cashman left
8 is when you assumed responsibilities for New Penn
9 Motor Express?

10 A. Well, when Mr. Carnes left.

11 Q. Mr. Cashman and Mr. Carnes left at the same
12 time, did they not?

13 A. That's correct.

14 Q. Had Mr. Carnes previously been responsible
15 for New Penn Motor Express?

16 A. Yes.

17 Q. Are you familiar with the plaintiff in this
18 case, Craig Goulet?

19 A. Yes.

20 Q. When did you first meet Mr. Goulet?

21 A. Mr. Goulet came across to me when he
22 reached out and told me he had settled his workers'
23 comp case or he was no longer on workers' comp and
24 he wanted to have his discharge case heard.

00011

1 Q. This was with regard to a discharge from
2 APA Transport?

3 A. Yes.

4 Q. Did you handle that case?

5 A. Yes.

6 Q. Do you recall the result of that case?

7 A. He was reinstated pending certain
8 stipulations.

9 Q. At some point in time, APA Transport
10 closed, did it not?

11 A. Yes.

12 Q. How did you come to learn that APA
13 Transport was going to close?

14 A. Well, Bill Carnes had been notified by
15 representatives of Eastern Region vis-a-vis TNFINC,
16 and then Mr. Carnes then contacted me. That's how I
17 was notified.

18 Q. Mr. Carnes was what?

19 A. Billy was the chairman of the Southern New
20 England Joint Area Committee. He was notified
21 because he handled -- I believe he was notified
22 because he handled the locals under that umbrella.

23 (Document marked as Harrington

24 Exhibit 1 for identification)

00012

1 Q. I'm showing you what was marked as Exhibit
2 No. 1 in your deposition. This purports to be a
3 memo to Local Union 25 and others dated February 14,
4 2002. Have you seen this document before this
5 litigation?

6 A. (Examines document) I may have. I don't
7 recall specifically. It was part of the packet I
8 guess that was given to us regarding the settlement
9 with APA.

10 Q. Do you have any specific recollection of
11 seeing this around February 14, 2002?

12 A. No.

13 Q. This document references that each local
14 union with APA Transport members is requested to
15 conduct a secret ballot ratification vote. Do you
16 see that reference in the middle of the first
17 paragraph?

18 A. (Examines document) Uh-huh.

19 Q. Do you recall whether or not there was, in
20 fact, a ratification vote by Local 25?

21 A. I recall we had a meeting with the members.
22 I don't recall specifically if we had a ratification
23 vote.

24 Q. This document references that there should

00013

1 be a ratification vote on February 16, 2002. Is
2 that when the meeting you recall occurred?

3 A. Yes.

4 Q. Where did that meeting take place?

5 A. At the Local 25.

6 Q. Do you recall what terminals of APA
7 Transport were covered by Local 25?

8 A. Canton, Massachusetts; Dracut,
9 Massachusetts.

10 Q. Before we talk about that particular
11 meeting, let's look at a couple of more documents.

12 (Document marked as Harrington

13 Exhibit 2 for identification)

14 Q. Mr. Harrington, I'm showing you what was
15 marked as Exhibit 2 to your deposition, which
16 purports to be a February 13, 2002 agreement between
17 the Teamsters National Freight Industry Negotiating
18 Committee and New Penn Motor Express, Inc.

19 Have you seen this document before?

20 A. (Examines document) Yes.

21 Q. Did you see it on or about February 13,
22 2002?

23 A. Yes.

24 Q. Did you see it prior to the union meeting

00014

1 that you said took place on February 16, 2002?

2 A. Probably.

3 (Document marked as Harrington

4 Exhibit 3 for identification)

5 Q. I'm showing you what was the marked as
6 Exhibit 3, which purports to be a summary of the
7 tentative agreement between TNFINC and NPME as a
8 result of the closure of APA operations. Are you
9 familiar with this document?

10 A. (Examines document) Yes.

11 Q. Did you see this also around the same time
12 of February 13th through February 16 of 2002?

13 A. More than likely.

14 Q. Was this document handed out at the meeting
15 on February 16, 2002?

16 A. Yes.

17 Q. Going back, looking at Exhibit 1, the
18 February 14, 2002 memo, if you look at the second
19 page, it refers to an "enclosure of a current
20 seniority roster for your APA terminal." Do you
21 remember seeing at or prior to the February 16, 2002
22 meeting a seniority list covering Dracut and/or
23 Canton?

24 A. No.

00015

1 Q. As a result of being advised by Mr. Carnes
2 that APA was going to be closed, what, if anything,
3 did you do?

4 A. At that particular moment? I don't quite
5 understand the question.

6 Q. You testified that Mr. Carnes notified you
7 that APA was going to be closed, correct?

8 A. Yes.

9 Q. As a result of receiving that information,
10 did you do anything?

11 A. Well, we got notified, you know, within --
12 well, this is dated February 14th. We were notified
13 the 15th, or thereabouts. We were told to have a
14 meeting on the 16th. We had like one day's notice.
15 We notified the stewards. We really didn't
16 have time to send out a letter. I don't recall if I
17 went to the terminals or not. We got the word out
18 we were having a meeting that Saturday. That was
19 that.

20 We received the documents. We went through
21 them the best we could. It was very, very short
22 notice. Obviously we were under pressure to get
23 this done, as you can see by the timeline we were
24 on. We just did the best we could to get everybody

00016

1 at the meeting.

2 Q. Did you attend this meeting?

3 A. Yes.

4 Q. Do you recall who among the Local 25
5 officials was present besides yourself, if anyone?

6 A. Bill Carnes, George Cashman, probably as
7 many people that were able to attend. Obviously it
8 was a big group.

9 We also I believe had some people in from
10 unemployment to help facilitate people receiving
11 unemployment benefits.

12 Q. What do you recall being said and done at
13 this meeting?

14 A. The packets were handed out.

15 Q. What were the packets that were handed out?

16 A. What you just provided me.

17 Q. I provided you with several documents.

18 A. They were all handed out.

19 Q. Exhibits 1, 2 and 3 were handed out?

20 A. Probably not Exhibit 1, but Exhibits 2 and
21 3 were because it was the agreement with APA
22 regarding the closure. Then it was the agreement
23 with New Penn regarding work opportunity.

24 Q. What else was said during this meeting, and

00017

1 done?

2 A. Just went over this information, and,
3 again, we had I believe the people from unemployment
4 give a presentation.

5 We went over the documents regarding
6 closure and any work opportunity that may come as a
7 result of the New Penn settlement.

8 Q. Do you remember if any vote actually took
9 place?

10 A. I don't recall.

11 Q. Under the agreement with New Penn, APA
12 drivers could choose a terminal to work out of,
13 correct?

14 A. Yep.

15 Q. That's a yes?

16 A. Yes.

17 Q. Was that discussed at this meeting?

18 A. Yes. That was part of the agreement.

19 Q. Do you recall if there was any discussion
20 about individual APA employees and their preferences
21 as to which New Penn terminal, if any, they wanted
22 to work out of?

23 MR. GLUEK: Objection.

24 A. We just outlined the agreement and went by

00018

1 what the agreement said.

2 Q. Did anyone solicit from the Local 25
3 members their New Penn preferences at this meeting,
4 if you recall?

5 A. Well, we did over the course of some time.
6 It might have been some done at that meeting, but,
7 you know, over the few days -- as it being a
8 Saturday, we didn't have the clerical staff in
9 there, so we had a couple of days, because not
10 everyone was present at the meeting.

11 It was short notice. I mean, I believe the
12 stewards over the course of a few days after the
13 meeting tried to compile a list.

14 Q. Were you involved at all in the effort of
15 compiling a list as to APA drivers and employees and
16 their preferences?

17 A. No.

18 Q. It's your understanding it was the
19 stewards' responsibility to ascertain that
20 information?

21 A. Yes.

22 Q. Who were the stewards for the different APA
23 terminals?

24 A. I believe at the time Doug Francey in

00019

1 Canton. I think it was Rich Johnson for Dracut.

2 Q. At some point in time, did Mr. Francey
3 indicate what the preferences were for the APA
4 employees at the Canton terminal?

5 A. I believe he did.

6 Q. Did he let you know what those preferences
7 were?

8 A. No.

9 Q. What is your understanding as to what
10 Mr. Francey did with regard to the information as to
11 the APA Canton employees and their terminal
12 preferences?

13 A. I believe he polled the people and
14 forwarded that information to our office, to our
15 clerical staff, compiling the list and trying to get
16 it together and get it to the region.

17 Q. Did you ever see a list compiled by
18 Mr. Francey?

19 A. I don't recall.

20 Q. At the union meeting, do you recall if
21 Mr. Goulet was discussed?

22 A. I don't believe he was, no.

23 Q. Do you recall any discussion about
24 Mr. Goulet's placement on the seniority list?

00020

1 A. At that meeting?

2 Q. Yes.

3 A. No. There was no discussion.

4 Q. Do you recall at any time around the APA
5 closure there being any discussion concerning
6 Mr. Goulet being on the APA seniority list?

7 A. I don't recall.

8 (Document marked as Harrington
9 Exhibit 4 for identification)

10 Q. Mr. Harrington, I'm going to show you what
11 was marked as Exhibit 4 in your deposition, and I
12 would ask you whether or not you recognize that
13 document?

14 A. (Examines document) Well, I do recognize
15 the names on the document.

16 Q. What do you recognize those names as?

17 A. It's pretty blurry, but they look to be
18 employees of APA. I can't tell if -- it's going to
19 take me a moment to look through it. It looks like
20 a list for Canton.

21 Q. Have you ever seen this document before?

22 A. I might have.

23 Q. You are not certain?

24 A. Right. I mean, this process was being done

00021

1 by the stewards. There were a lot of documents
2 going through the office at the time. I may or may
3 not have looked at it.

4 I acknowledge it is a list of employees at
5 the Canton terminal, though.

6 Q. Do you have any recollection of Mr. Francey
7 giving this document to you?

8 A. No.

9 Q. Around the time of the APA closure, do you
10 recall seeing any documents that listed the APA
11 employees' preference with regard to New Penn
12 terminals?

13 A. No.

14 Q. What is your understanding as to what
15 happened with the steward's list of APA employees'
16 preferences?

17 A. They were provided to our office clerical.
18 Then they, in turn, were forwarded to the Eastern
19 Region because the Eastern Region had to coordinate
20 it and turn it over to New Penn to start the calling
21 process.

22 Q. What is the basis for your understanding
23 that that's the way the lists were handled?

24 A. It's my personal knowledge.

00022

1 Q. How did you come to have that personal
2 knowledge?

3 A. Discussions within the office. I mean, the
4 office manager, you know, coordinating the sending
5 of the list: "Mark, I'm sending the list to Dan
6 Virtue." "Okay."

7 Q. Who was the office manager that so told you
8 that?

9 A. Probably Sheila McLaughlin.

10 Q. Is Ms. McLaughlin still an employee of
11 Local 25?

12 A. Yes.

13 Q. In what capacity is she employed?

14 A. Office manager.

15 Q. She was the office manager in February
16 2002?

17 A. I'm not sure if she was at that time, but
18 for the sake of the term, probably the head
19 secretary.

20 (Document marked as Harrington
21 Exhibit 5 for identification)

22 Q. I'm now showing you Exhibit 5,
23 Mr. Harrington, which purports to be a fax cover
24 sheet with five pages of an attachment, the cover

00023

1 sheet being dated February 22, 2002, to Irene from
2 George W. Cashman, I believe.

3 Are you familiar with any of these
4 documents?

5 A. (Examines document) No.

6 Q. Do you know who Irene is?

7 A. No.

8 Q. Looking at the second page of the Dracut
9 seniority list, have you ever seen that document
10 before?

11 A. (Witness reviews document) No.

12 MR. GLUEK: You are on a different page
13 than he is.

14 Q. It's the second page.

15 A. (Witness reviews document) No.

16 Q. Have you ever seen that form before, one
17 with numbers, name, seniority date, Preference 1 and
18 Preference 2?

19 A. No.

20 Q. Do you recognize any of the handwriting?

21 A. Handwriting?

22 Q. Yes.

23 A. No.

24 Q. Looking at Page No. 3, which has

00024

1 handwriting on the side, "APA Dracut,
2 Massachusetts," have you ever seen that document
3 before?

4 A. Not to the best of my recollection.

5 Q. Have you ever seen that form before?

6 A. No.

7 Q. Looking at the next to last page, I think
8 it's cut off, but I believe it's "APA Canton,
9 Massachusetts" on the side that's written.

10 A. (Examines document) Okay.

11 Q. Have you ever seen that document before?

12 A. No.

13 Q. Have you seen that form, that kind of form
14 before?

15 A. No.

16 (Document marked as Harrington
17 Exhibit 6 for identification)

18 Q. I'm now showing you, Mr. Harrington, what
19 was marked as Exhibit 6, purporting to be a
20 February 28, 2002 letter to Dan Schmidt from
21 George W. Cashman, with a two-page enclosure.
22 Have you ever seen any of these documents
23 before?

24 A. (Examines documents) No.

00025

1 Q. Do you know who Dan Schmidt is?

2 A. Yes.

3 Q. Was he as of February 2002 the vice
4 president of labor relations for New Penn Motor
5 Express?

6 A. That's what it says.

7 Q. Have you ever dealt with Dan Schmidt?

8 A. Yes.

9 Q. When you dealt with him, was he indeed an
10 employee of New Penn Motor Express?

11 A. Not all the time.

12 Q. Sorry?

13 A. Not all the time.

14 Q. During what period of time was he an
15 employee of New Penn Motor Express?

16 A. I don't know when he was hired, but I've
17 dealt with him since I've taken over the assignment,
18 since May of 2002.

19 Q. Looking at the second and third pages of
20 this exhibit, have you ever seen those documents
21 before?

22 A. I may have. I don't recall specifically
23 when I saw them, or if I saw them.

24 Q. Do you have any understanding as to who

00026

1 prepared this document?

2 A. No.

3 Q. Around this period of time, did you have
4 any communications with Craig Goulet?

5 A. No.

6 Q. Did you speak to him after or shortly after
7 the employee meeting on February 16, 2002?

8 A. I don't recall.

9 Q. You handled his APA discharge grievance,
10 correct?

11 A. Right.

12 Q. That case had been decided prior to the APA
13 closure, correct?

14 A. Yes.

15 Q. Prior to the APA closure, had you seen
16 Mr. Goulet's name on any seniority list?

17 A. No.

18 Q. Are you certain about that?

19 A. Yes.

20 Q. Did you speak to Mr. Goulet about his
21 terminal preference?

22 A. No.

23 Q. What's the first communication that you
24 recall having with Mr. Goulet following the APA

00027

1 closure?

2 A. His inquiry of what the status of his
3 grievance was that he had filed with Mr. Carnes. It
4 would be in May of 2002, or sometime after May of
5 2002.

6 Q. What do you recall about that inquiry?

7 A. He wanted to know the status of his
8 grievance.

9 Q. Was this a telephone conversation?

10 A. Actually, was that 2002? Yes, it was a
11 telephone conversation.
12 I guess it was 2003. 2003 is when I heard
13 from Mr. Goulet. That's when Billy and George left,
14 2003.

15 Q. Could you recount for us as best you can
16 recall what was said during this telephone
17 conversation.

18 A. He wanted to know what the status of his
19 grievance was. I said, "I never saw your grievance.
20 I will have to investigate it and find out what's
21 going on with it."

22 Q. Do you recall anything else about this
23 telephone conversation?

24 A. Maybe some chit-chat about Billy and

00028

1 George, but other than that, no.

2 Craig would call and ask me how George was
3 doing or how Billy was doing and other officers of
4 the local that he knew. Other than that, I have no
5 other recollection of the conversation.

6 Q. What, if anything, did you do next with
7 regard to Mr. Goulet's inquiry about his grievance?

8 A. Actually, I think I asked him to forward me
9 a copy of the grievance in the mail. I couldn't
10 find it. He did that I believe.

11 (Document marked as Harrington
12 Exhibit 7 for identification)

13 Q. Mr. Harrington, I'm showing you what was
14 marked as Exhibit 7, which purports to be a
15 handwritten Teamsters Union Local 25 grievance
16 report dated April 7, 2003.

17 Is this the grievance that Mr. Goulet
18 forwarded to you?

19 A. (Examines document) Yes.

20 Q. Was this the first time you had seen this
21 grievance?

22 A. Yes.

23 Q. This was sometime after May 2003?

24 A. Yes.

00029

1 Q. Upon receipt of this grievance, what, if
2 anything, did you do?

3 A. Well, I looked at it. I didn't think it
4 really had any merit since Mr. Goulet had never
5 completed his original decision -- complied with his
6 decision.

7 I was not quite certain if I wanted to file
8 or not because, as I said, I didn't think it had any
9 merit. Mr. Goulet continued to contact me, pressed
10 the issue. Then -- well, that's it. You can ask
11 your questions.

12 Q. Over what period of time did Mr. Goulet
13 continue to contact you?

14 A. Throughout the -- a couple of times over
15 the summer of that year.

16 Q. What happened next?

17 A. Through pretty much his persistence and
18 insistence, to appease him, I filed the case for the
19 Southern Joint Area Committee in September.

20 Q. Did you ever communicate to Mr. Goulet in
21 writing about your opinion about the merits of the
22 grievance?

23 A. No.

24 Q. Did you ever make any internal notes about

00030

1 your opinion concerning the merits of the grievance?

2 A. No.

3 Q. Do you have anything that would support

4 your contention that you did not believe the

5 grievance was meritorious?

6 A. Anything to support it?

7 Q. Yes.

8 A. Yes, the fact that he didn't fulfill his

9 original award.

10 Q. Anything that you had that opinion at the

11 time?

12 A. Excuse me?

13 Q. Do you have any evidence that indeed that

14 was the opinion you had at the time, in the summer

15 of 2003?

16 A. Just personal belief.

17 Q. You made no record of that personal belief,

18 though?

19 A. Well, we had a conversation over the phone.

20 There was a document introduced at Mr. Goulet's

21 deposition. Certainly the body of the letter they

22 wrote certainly indicates we had some disagreement

23 about the merits of his grievance.

24 Q. What document are you referencing?

00031

1 A. It was put in as an exhibit at Craig's
2 deposition at the offices of Dwyer, Duddy and
3 Facklam.

4 MR. LATHROP: Let's mark this as our next
5 exhibit in line.

6 (Document marked as Harrington
7 Exhibit 8 for identification)

8 Q. I'm showing what was marked as Exhibit 8 in
9 this deposition, purporting to be a handwritten
10 letter dated July 25, 2003 from Mark. Is this the
11 document you are referencing?

12 A. You said, "from Mark."

13 Q. Sorry. I meant to Mark.

14 A. Yes.

15 Q. This is the document you contend indicates
16 a disagreement over the merits of the case?

17 A. Yes.

18 Q. What particularly are you looking at to
19 indicate there's a disagreement over the merits of
20 the case?

21 A. "Not whether one was capable of working or
22 not."

23 Q. Anything else within this letter?

24 A. "Let's not lose sight of the real issue

00032

1 here." Obviously we were having some disagreement
2 about the issue.

3 Q. Anything else within the body of this
4 letter that you contend shows that you had a
5 disagreement about the merits of the case?

6 A. Well, in the last paragraph, "Over the
7 years, I've asked APA to put me back to work light
8 duty or otherwise." I mean, I used to tell Craig
9 all the time that he was not entitled to light duty,
10 but he used to press me on the issue.

11 Under the light duty clause in the National
12 Master Freight, it's a preparation for people that
13 are preparing for returning to work within a short
14 period of time.

15 At no time did Mr. Goulet ever say he was
16 going to return to work.

17 It was for a transitional period for people
18 that were going off the job on an injury and were in
19 the process of returning to work. I kept telling
20 him he was not entitled to that benefit under the
21 contract.

22 Q. You had those discussions before his
23 arbitration case was decided?

24 A. Yes.

00033

1 Q. Is there anything else within the body of
2 this letter from which you deduce that there was a
3 difference of opinion about Mr. Goulet's current
4 grievance?

5 A. No.

6 Q. Do you recall any discussions that you had
7 with Mr. Goulet about his grievance other than what
8 you have already testified to?

9 A. No.

10 (Document marked as Harrington
11 Exhibit 9 for identification)

12 Q. Mr. Harrington, I'm showing you what was
13 marked as Exhibit 9, which purports to be a Southern
14 New England Joint Area Committee prehearing
15 information document.

16 Is that your signature on there?

17 A. (Examines document) No.

18 Q. Is that someone who signed it with your
19 permission?

20 A. Yes.

21 Q. Who was it that signed this with your
22 permission?

23 A. Probably Maureen Henry, the office
24 secretary. She handles the filing of the cases.

00034

1 Q. Is this the filing of the case?

2 A. Yes.

3 Q. You see the language under the Position of
4 Filing Party?

5 A. (Examines document) Uh-huh.

6 Q. Who drafted that language, if you know?

7 A. Myself.

8 Q. Is it your testimony you really didn't
9 believe what you wrote there?

10 A. Yes.

11 Q. But you filed the grievance anyway?

12 A. Yes.

13 Q. Does this constitute a docketing of the
14 grievance?

15 A. Yes.

16 Q. Had this grievance been docketed prior to
17 September 3, 2003?

18 A. No.

19 Q. Do you know if there was a time limit in
20 the collective bargaining agreement with regard to
21 the docketing of grievances?

22 A. Yes.

23 Q. What is the time limit?

24 A. 30 days from the time of the filing of the

00035

1 grievance.

2 (Document marked as Harrington

3 Exhibit 10 for identification)

4 Q. Mr. Harrington, I'm showing you what was

5 marked as Exhibit 10, purporting to be a letter to

6 you from Craig Goulet dated November 24, 2003.

7 Do you recognize this document?

8 A. Yes, only because you introduced it at the

9 last deposition that I attended. Other than that, I

10 have no recollection of it.

11 Q. I introduced it?

12 A. Or that Kathleen introduced. I'm sorry.

13 Q. You don't have an independent memory of

14 receiving this document?

15 A. No.

16 Q. Was Mr. Goulet's grievance heard at the

17 Southern New England Joint Area Committee level?

18 A. No.

19 Q. Do you know why not?

20 A. Yes.

21 Q. What is the reason why not?

22 A. Because it was a multi-local agreement.

23 Because we really didn't have a home for it, so to

24 speak, under the contract because it was outside the

00036

1 contract agreement as far as this affects
2 bargaining, so to speak, of the agreement between
3 APA, New Penn and TNFINC.
4 We filed it originally at the Southern New
5 England under the guise of seniority, but because it
6 was a multi-local issue as far as the whole
7 settlement, they referred it over to the Eastern
8 Region.

9 Q. And who is "they"?

10 A. The clearing house that, you know -- the
11 local cochair, John Murphy, who was the cochair from
12 the union side; Bob Schafer, who was the cochair for
13 the employer's side; and I believe they had
14 conversation with Dan Virtue; maybe Pete Hassler
15 from the employer's side, exactly where this
16 grievance should be heard.

17 Q. Did you then file a document with the
18 Eastern Region Joint Area Committee?

19 A. I don't recall if we filed one or it was
20 just referred to. Anyway, it was moved to that
21 committee.

22 (Document marked as Harrington
23 Exhibit 11 for identification)

24 Q. Mr. Harrington, I'm showing you what was

00037

1 marked as Exhibit 11, purporting to be a form used
2 in the filing of all grievances with the Eastern
3 Region Joint Area Committee.

4 A. (Examines document) Right.

5 Q. This purports to be signed by yourself on
6 April 20, 2004. Do you recognize this document?

7 A. Yes.

8 Q. Is that, in fact, your signature?

9 A. No.

10 Q. Did someone sign your name with your
11 approval?

12 A. Yes.

13 Q. Do you know who signed this one with your
14 approval?

15 A. Looks like Maureen Henry.

16 Q. Under Union Position, could you read that,
17 please.

18 A. "Per the APA New Penn agreement, Craig
19 should have been called for work at New Penn Motor
20 Express. Union seeks that Brother Goulet be
21 returned to his seniority."
22 It's actually hard to read.

23 Q. Do you know who composed that language?

24 A. Yes.

00038

1 Q. Who?

2 A. Myself.

3 Q. At some point in time, was this grievance
4 heard?

5 A. Yes.

6 Q. Do you recall where it was heard?

7 A. Myrtle Beach, South Carolina.

8 Q. Do you recall when it was heard?

9 A. I think it was July of 2004.

10 Q. In advance of it being heard, did you
11 submit any sort of argument in favor of the
12 grievance?

13 A. In advance?

14 Q. Yes.

15 A. No.

16 Q. At the hearing, did you submit any writings
17 in favor of the grievance?

18 A. Yes.

19 (Document marked as Harrington
20 Exhibit 12 for identification)

21 Q. I'm showing you what was marked as Exhibit
22 No. 12, purporting to be a multiple page document
23 dated July 22, 2004, addressed to Gentlemen,
24 purportedly over your signature, in the matter of

00039

1 Teamsters Local 25 versus New Penn Motor Express
2 involving Craig Goulet.

3 A. (Examines document) Right.

4 Q. Looking at the second page, is that your
5 signature?

6 A. (Examines document) No.

7 Q. Is that someone who has signed your name
8 with your permission?

9 A. Yes.

10 Q. Did you compose Exhibit No. 12?

11 A. Yes.

12 Q. Would you please look at what is attached
13 as Exhibit 2 to this document. Do you see that
14 document?

15 A. (Examines document) Uh-huh.

16 Q. That's a Canton seniority list, is it not?

17 A. Right.

18 Q. For Local Union 25?

19 A. Yes.

20 Q. Dated November of 2001?

21 A. Yes.

22 Q. Mr. Goulet's name appears on that, does it
23 not?

24 A. Yes.

00040

1 Q. Where did you get this document?

2 A. I didn't. You just gave it to me.

3 Q. It was attached as Exhibit 2, was it not?

4 A. Oh, yes. Well, periodically companies
5 remit seniority lists to the local union,
6 submit/remit.

7 Q. Is it your testimony that in the normal
8 course of events, you had received this Canton
9 seniority list from APA Transport?

10 A. The office did, yes.

11 Q. So on or about November of 2001, the
12 Local 25 office received this Canton seniority list
13 with Mr. Goulet's name on it?

14 A. I don't know when they received it. It's
15 dated November 2001.

16 Q. Do you have any reason to believe that it
17 was not received in the normal course in
18 approximately November of 2001?

19 A. No.

20 Q. It's your testimony that this seniority
21 list was in the office and that's from where you
22 retrieved it?

23 A. Yes.

24 Q. Do you remember specifically where within

00041

1 the office you retrieved it?

2 A. Probably from the files, from the secretary
3 that keeps the files on seniority lists.

4 Q. Was there a secretary within the Local 25
5 office who had the responsibility for maintaining
6 seniority lists?

7 A. No. The union doesn't maintain seniority
8 lists.

9 Q. Then I'm confused by the answer.

10 A. The union receives seniority lists from the
11 company.

12 Q. Help clarify your prior answer, please.

13 Where did you get this document from?

14 A. From the office.

15 Q. Where?

16 A. Local 25 office.

17 Q. But where within the office, sir, did you
18 get this document?

19 A. Probably it would be from Irene, who keeps
20 the 250 companies that we have. She keeps records
21 of seniority lists that are sent in to the local.

22 Q. Does Irene have a last name?

23 A. Hanlon.

24 Q. Does she still work for Local 25?

00042

1 A. Yes.

2 Q. Is she still a secretary?

3 A. Yes.

4 Q. Just to make sure I'm clear, in the normal
5 course of events in the year 2001, Iran Hanlon kept
6 files on employer seniority lists?

7 A. Yes.

8 Q. For how long has Irene Hanlon been doing
9 that?

10 A. As long as she's been employed there.

11 Q. To your knowledge, how long has Irene
12 Hanlon been employed there?

13 A. Around four or five years.

14 Q. Since approximately the year 2000?

15 A. Possibly. I don't recall her exact hire
16 date. I didn't hire her at the time.

17 I was not in the capacity to even recall
18 when she was hired. It had nothing to do with me.

19 I just know she came over from the AFLCIO somewhere
20 around that time period.

21 Currently she does it. She may not have
22 done it at the time. She currently does it, but at
23 that time, I don't recall if it was Kathleen, you or
24 him, just that I need the information.

00043

1 Whoever was responsible for it at the
2 period of time gave it to me.

3 Q. To whom does Irene report now?

4 A. Sheila.

5 Q. Sheila?

6 A. Yes, McLaughlin.

7 Q. As of November 2001, did Irene report to
8 Sheila McLaughlin at that point?

9 A. Probably.

10 Q. Sheila is the office manager?

11 A. Yes.

12 Q. Speaking at least currently, does anyone
13 other than Irene Hanlon keep the files of the
14 company seniority lists?

15 A. No.

16 Q. As of November 2001, did anyone other than
17 Irene Hanlon keep the files of the company seniority
18 lists?

19 A. I don't know.

20 Q. Would you look at Exhibit 3 that's attached
21 to your document.

22 A. (Examines document) Okay.

23 Q. Where did you get that document from?

24 A. The office.

00044

1 Q. Do you know who had prepared this document?

2 A. No.

3 Q. Did you also get this from Irene Hanlon, or
4 whoever else was holding the employer seniority
5 lists?

6 A. Probably not.

7 Q. Do you recall from whom within the office
8 you got this document then?

9 A. Sheila.

10 Q. Why do you say that?

11 A. Because she coordinates communication
12 between the region, any pending litigation that we
13 have.

14 Also, we are also pursuing WARN Act
15 violations against the APA, so she would keep that
16 type of information in her possession.

17 Q. Do you have any understanding as to who
18 prepared what you attached as Exhibit 3 to this
19 document?

20 MS. PENNINI: Objection.

21 A. No.

22 Q. Do you know if it was prepared by someone
23 at Local 25?

24 A. More than likely.

00045

1 Q. Does Mr. Goulet's name appear on Exhibit 3?

2 A. No.

3 Q. Do you know why it doesn't appear on
4 Exhibit 3?

5 A. No idea.

6 Q. Even though this is a document more than
7 likely prepared by Local 25?

8 A. Right.

9 Q. Do you have any understanding as to how one
10 could learn who prepared Exhibit 3?

11 A. No.

12 Q. What persons in February 2002 do you
13 understand were involved in preparing the terminal
14 preference lists?

15 A. The stewards, and then the office staff
16 would compile it and send it over to the Eastern
17 Region.

18 Q. Would you look at the second page where it
19 says, "Mr. Goulet has sufficient seniority to be
20 called for work," correct?

21 A. Uh-huh.

22 Q. Do you recall what was the basis for your
23 saying that?

24 A. People that had been called with less than

00046

1 seniority than him.

2 Q. People from the Canton APA terminal who had
3 less seniority than Mr. Goulet had been called by
4 New Penn?

5 A. Both terminals, Dracut and Canton.

6 Q. Do you know of any people with less
7 seniority than Mr. Goulet who made the call list
8 from New Penn?

9 A. I don't understand "call list."

10 MS. PENNINI: Objection.

11 Q. Do you know of any persons who were lower
12 on the APA seniority list than Mr. Goulet who made
13 the New Penn seniority list?

14 A. People that were physically qualified and
15 available?

16 Q. Yes.

17 A. Yes.

18 Q. Do you have a medical degree?

19 MR. GLUEK: Objection.

20 MS. PENNINI: Objection.

21 A. Not recently. It's a term under the
22 contract.

23 Q. What, a medical degree is?

24 MR. GLUEK: Objection.

00047

1 A. No, "physically available."

2 Q. Following the APA closure, did you have any
3 discussions with Mr. Goulet concerning his ability,
4 physical ability to return to work?

5 A. Yes.

6 Q. When did those discussions take place?

7 A. Well, via phone calls, met with him in
8 preparation for his case at Picadilli Pub in
9 Westboro, Mass., and continued to stress to him that
10 I had concerns about his case and his ability to
11 even return to work, and I pressed him on it.
12 He was vague that he wanted to go back to
13 work, vague that he could even qualify to go back to
14 work.

15 I told him I would take his case on. He
16 felt as though he had gotten neglected by the
17 situation, and, you know, I told him I would take
18 his case in. He felt as though he had been, you
19 know, denied.
20 I continued to tell him -- and we had
21 several disagreements about it when we met -- that
22 he could even qualify or that he would have a desire
23 to actually go back to work.

24 Q. You said he was vague. Could you tell me

00048

1 specifically what, in fact, Mr. Goulet said that you
2 characterize as being "vague."

3 A. Well, sometimes he said he wanted to go
4 back. Other times he said he couldn't go back
5 because of his limitations with his knee, the
6 various injuries. He said had to get his knee done.
7 I said, "I don't know if you can do the
8 work if you have to get your knee done. I don't
9 know if you can pass or get qualified. I mean, you
10 still have to get examined and get a return to duty
11 evaluation from a company doctor."

12 Given the fact that he had concerns over
13 his injuries and the fact that over a year's time he
14 didn't attempt to get cleared, I questioned whether
15 or not he was able to go back to work.

16 Q. You questioned it, and sometimes he told
17 you he could?

18 A. In the same breath he would say, "I have to
19 get my knee done," "I have to get this," that. I
20 would say, "Can you go back?" "I don't know. I
21 don't want to drive. I might be able to do dock
22 work."

23 I said, "Craig, you have still not
24 fulfilled your award. You still haven't been

00049

1 medically cleared to go back to work" or "You
2 haven't fulfilled your ten-day suspension."

3 Q. What did he say in response to that?

4 A. He would continue to say, you know, that he
5 wants his day in court. He wants to be heard.

6 Q. Did you know whether or not Mr. Goulet was
7 still on workers' compensation?

8 A. Yes.

9 Q. Was he still on workers' compensation?

10 A. According to him, no, because his case
11 couldn't have got heard --

12 Q. Do you have any reason to dispute that?

13 MR. GLUEK: Objection. He was still
14 answering.

15 A. He couldn't have had his case heard at the
16 Southern New England if he was still collecting.
17 That question was asked of him at that hearing if he
18 was still collecting workers' compensation.

19 Q. Do you recall his answer?

20 A. It was no.

21 Q. Do you have any reason to dispute his
22 answer?

23 A. No.

24 Q. Do you know if he was on Social Security?

00050

1 A. No.

2 Q. No, he was not, or --

3 A. I have no knowledge of that, is what I'm
4 saying.

5 Q. That topic didn't come up?

6 A. I don't believe so.

7 Q. Did Mr. Goulet say, "Let them call me, and
8 let's see if I can do the work"?

9 A. He may have.

10 Q. But you understood that New Penn had not,
11 in fact, called him to work?

12 A. Yes.

13 Q. Do you have any understanding whether or
14 not Mr. Carnes ever docketed Mr. Goulet's grievance?

15 A. No.

16 Q. Do you have any understanding as to why it
17 was not docketed?

18 A. No.

19 Q. As of April 7, 2003, whose responsibility
20 within Local 25, if anyone, was it to docket
21 Mr. Goulet's grievance?

22 A. Whoever the business agent was that's
23 assigned to the company.

24 Q. Who was the business agent as of April 7,

00051

1 2003 who was assigned to New Penn?

2 A. Bill Carnes.

3 Q. Did you ever have any conversation with
4 Mr. Carnes concerning Mr. Goulet's grievance?

5 A. No.

6 Q. Did you ever ask him about the docketing of
7 the grievance?

8 A. No.

9 Q. You took over for Mr. Carnes in May of
10 2003?

11 A. Uh-huh.

12 Q. That's a yes?

13 A. Yes.

14 Q. Was that on May 3, 2003?

15 A. I don't recall the specific date.

16 Q. Was Mr. Carnes also responsible for the
17 Dracut terminal?

18 A. No. Well, for what time period? I don't
19 know what time period.

20 Q. Sorry. Prior to the Dracut terminal
21 closing, was Mr. Carnes responsible for that?

22 MR. GLUEK: Objection.

23 A. No.

24 Q. I'm sorry. You were responsible for the

00052

1 Dracut terminal?

2 A. APA Dracut terminal?

3 Q. Yes.

4 A. Yes.

5 Q. Do you know if Mr. Goulet's name was left
6 off the seniority list because he had been out on
7 workers' compensation?

8 A. I have no idea.

9 Q. Was there anyone responsible in the Local
10 25 office for supervising the secretaries as they
11 put together the APA preference list?

12 A. I have no idea.

13 MR. LATHROP: Let's take a few minutes.

14 (Recess)

15 MR. LATHROP: I have no further questions.

16 CROSS EXAMINATION

17 BY MR. GLUEK:

18 Q. Morning. I'm Carl Gluek. I represent New
19 Penn Motor Express.

20 Since you've been a BA, I think you
21 testified since 1994 --

22 A. Yes.

23 Q. -- approximately how many grievances have
24 you pursued to either the regional committee or at

00053

1 the local committee level?

2 A. Handful.

3 Q. A handful?

4 A. Yes.

5 Q. When you drafted what's been previously

6 marked as --

7 A. Excuse me, did you say docketed or put on?

8 Q. Put on.

9 A. Handful.

10 Q. When you drafted what's been previously

11 marked as Harrington Exhibit 12, to whom were you

12 writing this to?

13 A. Members of the committee of the Eastern

14 Region, employees in the union.

15 Q. Were you writing this in your role as an

16 advocate?

17 A. Yes.

18 Q. Did you believe it was your responsibility

19 to draft Exhibit 12 and tell the committee the

20 weaknesses of your case?

21 MR. LATHROP: Objection.

22 A. No.

23 Q. Were you ever instructed that when you

24 wrote a letter to the committee, you were supposed

00054

1 to be balanced in your writing?

2 A. No.

3 Q. If you would take a look at what was marked
4 as Exhibit 2 to Exhibit 12, the Canton seniority
5 list. I notice there's only 40 names.

6 A. (Examines document) Right.

7 Q. Could you compare that to what was marked
8 as Harrington Exhibit 4.

9 A. (Examines document) Okay.

10 Q. There's approximately 75 names?

11 A. (Examines document) Okay.

12 Q. Do you know what explains the difference?

13 A. It's probably just the first page here of
14 the seniority list in Exhibit 12, No. 2.

15 Q. So it was not your intent to give the
16 entire seniority list with respect to Exhibit 12?

17 A. Right.

18 Q. In your role as a BA or as a secretary
19 treasurer, do you have discretion as to what
20 grievances you pursue to the committees?

21 A. Yes.

22 Q. Is there anything that requires you to
23 pursue each and every grievance at a committee
24 level?

00055

1 A. No.

2 Q. What are some of the factors you use to
3 determine whether or not a grievance is going to be
4 pursued to the committee level?

5 A. If it's not a violation of the contract;
6 settlement, offer of settlement by the company prior
7 to going into arbitration; criminal, somebody
8 convicted of a crime regarding termination or
9 something to that effect, we probably would not
10 pursue it since it's already been adjudicated.
11 It's things of that nature.

12 Q. So you look at a multitude of factors?

13 A. Yes.

14 Q. When you were pursuing Mr. Goulet's
15 grievance with respect to New Penn, did you have any
16 animosity towards him?

17 A. No.

18 Q. Any ill will towards him?

19 A. No.

20 Q. Any prejudices towards him?

21 A. No.

22 Q. Could you look at what's been marked as
23 Harrington Exhibit 5, please. Can you look at the
24 top. Do you see the fax numbers? The first one is

00056

1 a 717 number?

2 A. (Examines document) Right.

3 Q. Do you know whose fax that is?

4 A. Well, it goes on to say here, "Teamsters

5 776."

6 Q. Do you see down below where there appears

7 to be a fax number, 202?

8 A. (Examines document) Right.

9 Q. Do you know whose fax number that is?

10 A. It's a Washington number. It says, "IBT

11 National Freight." It's probably going over at the

12 IBT headquarters.

13 Q. To the best you can tell from the fax

14 numbers, it's coming from Teamsters 776 to the

15 International?

16 MR. LATHROP: Objection.

17 Q. I'm sorry. To the National Freight

18 Division?

19 A. Yes.

20 Q. On the first page, do you see where it

21 says, "To Irene"?

22 A. (Examines document) Yes.

23 Q. To your knowledge, is that a different

24 Irene than the secretary in your office?

00057

1 A. Yes.

2 Q. To your knowledge, was New Penn ever
3 provided between March 1, 2002 and March 31, 2003
4 with Mr. Goulet's name and/or preference?

5 A. I have no knowledge.

6 Q. Could you look again at what's been marked
7 as Exhibit 12. Take a look at Exhibit 1 to that
8 document.

9 A. (Examines document) Okay.

10 Q. Just read the decision to yourself.

11 A. (Examines document) Okay.

12 Q. I think you already testified that to your
13 knowledge, Mr. Goulet never provided the company
14 with documentation that he could return to work
15 without restrictions; is that correct?

16 A. That's correct.

17 Q. To your knowledge, Mr. Goulet never served
18 a suspension?

19 A. That's correct.

20 Q. Therefore, under the decision, is it your
21 understanding that Mr. Goulet would not be on the
22 seniority?

23 A. Correct.

24 MR. GLUEK: Nothing further.

00058

1 CROSS EXAMINATION

2 BY MS. PENNINI:

3 Q. Mr. Harrington, why did you docket
4 Mr. Goulet's grievance to the Southern New England
5 Joint Area Committee in September of 2003?

6 A. Because that's usually the first step of
7 the grievance procedure -- arbitration procedure,
8 under the contract.

9 Q. Why did you decide to file this grievance?

10 A. Well, Mr. Goulet's insistence that it be
11 filed. As I understand it, he had reached out to
12 some people within the International union and
13 thought he was getting a raw deal or whatever.
14 I docketed the case just to appease him
15 really. I can't say anything else. I mean, as I
16 say, he never really completed or fulfilled the
17 original case.

18 Q. If not for Mr. Goulet's insistence, would
19 this have been a case you would have otherwise ever
20 docketed as a grievance?

21 MR. LATHROP: Objection.

22 A. Probably not.

23 Q. If you could look at Exhibit 2 of
24 Deposition Exhibit No. 12. You said that you

00059

1 received this list from Irene. Was that Irene
2 Hanlon in the Local 25 office?

3 A. I received it from a secretary in the Local
4 25 office, so if Irene was employed at the time and
5 handling it. As in her capacity currently, it would
6 have been through her.

7 Q. Do you recall when the first time you saw
8 the list was?

9 A. Probably in preparation for the case.

10 Q. Do you recall whether you ever saw this
11 list prior to the filing -- prior to filing and
12 docketing the grievance with the Joint Area
13 Committee?

14 A. I don't recall.

15 Q. Do you recall whether you saw this list in
16 November of 2001?

17 A. I don't recall.

18 Q. Prior to the arbitration before the Joint
19 Area Committee in October of 2001, did you speak to
20 Mr. Goulet about his ability to return to work?

21 A. I don't recall if I did or not.

22 Q. Do you recall what you said to Mr. Goulet
23 after the decision was rendered in October of 2001?

24 A. I told him that he was reinstated back to

00060

1 work conditional upon the requirements.

2 Q. Did you tell him what the requirements
3 were?

4 A. Yes.

5 Q. What were those requirements?

6 MR. LATHROP: Objection.

7 A. He needed to demonstrate an ability to
8 return unrestricted and to serve a ten-day
9 suspension.

10 Q. Do you know whether he ever submitted any
11 documentation about his ability to return to work?

12 A. I have no idea.

13 Q. I believe you said his case could not have
14 been heard before the Joint Area Committee if he was
15 still receiving workers' compensation; is that
16 correct?

17 A. That's correct.

18 Q. Would this case have been able to go
19 forward if the committee was aware that he receiving
20 Social Security benefits?

21 A. I'm not sure.

22 Q. Following the October arbitration award,
23 did Mr. Goulet say whether he would be returning to
24 work?

00061

1 A. No.

2 Q. Did he give any indication as to whether he
3 was trying get clearance to return to work?

4 A. No.

5 Q. You said that you spoke with Mr. Goulet
6 during the summer of 2003 concerning his failure to
7 be called from the New Penn call list, correct?

8 A. Yes.

9 Q. When he spoke with you, did he ever ask for
10 any assistance regarding looking for other
11 employment?

12 A. No.

13 MS. PENNINI: That's all the questions I
14 have. Thanks.

15 REDIRECT EXAMINATION

16 BY MR. LATHROP:

17 Q. Do you have an understanding whether or not
18 someone on Social Security benefits has up to a year
19 to try to go back to work without putting their
20 benefits at risk?

21 A. No.

22 Q. You don't know that one way or the other?

23 A. (Witness shakes head)

24 Q. You never had that discussion with

00062

1 Mr. Goulet?

2 A. No.

3 Q. I would also ask you to look at Exhibit 12,
4 which is your brief dated July 22, 2004. I believe
5 Attorney Pennini had you look at some of the
6 exhibits.

7 Exhibit 1 to that brief is the decision
8 with regard to Mr. Goulet's termination from APA,
9 correct?

10 A. (Examines document) Right.

11 Q. The date of that is October 16, 2001?

12 A. Okay.

13 Q. Correct?

14 A. Yes.

15 *Q. It's your understanding that based upon
16 this decision, APA Transport could insist that
17 Mr. Goulet submit acceptable documentation of his
18 ability to return to unrestricted duties.

19 MR. GLUEK: Objection.

20 MS. PENNINI: Objection.

21 Q. Please answer the question.

22 MR. GLUEK: What is the question?

23 MR. LATHROP: Please read back the
24 question.

00063

1 *(Question read)

2 MR. GLUEK: Objection. There's still no
3 question.

4 Q. That was your understanding, correct?

5 MR. GLUEK: Objection.

6 Q. You still have to answer the question.

7 A. My understanding is the award.

8 Q. Right. Let me read the second sentence.

9 It says, "The panel after hearing the case, motion

10 made, second carried, that upon submitting

11 acceptable documentation to the company of his

12 ability to return to unrestricted duties, the

13 grievant shall serve a ten-day suspension." Do you

14 understand that sentence?

15 A. Yes.

16 Q. What's that mean to you?

17 A. It means upon his unrestricted clearance to

18 go back to work, he would then serve a ten-day

19 suspension and then would be placed on the seniority

20 list.

21 Q. Did you understand that the company could

22 put him on a seniority list without insisting on the

23 conditions?

24 MR. GLUEK: Objection. There's no

00064

1 question.

2 MR. LATHROP: If you listen to it, you will
3 hear the question.

4 MR. GLUEK: No, there is no question.

5 Q. Did you understand that APA could waive
6 those requirements?

7 MR. GLUEK: Objection.

8 A. No.

9 Q. In fact, isn't that exactly what APA did?

10 APA put him on the seniority list in November of
11 2001 without him serving the suspension, correct?

12 A. I don't know. But they did, yes.

13 Q. They did, didn't they?

14 MR. GLUEK: Objection.

15 A. (No response)

16 Q. APA Transport put him on the seniority list
17 in November of 2001 without ever asking for or
18 seeing medical documentation, correct?

19 MR. GLUEK: Objection.

20 MS. PENNINI: Objection.

21 A. I guess.

22 Q. So Exhibit 2, the Canton seniority list for
23 November 2001, was prepared by APA Transport; is
24 that correct?

00065

1 A. Correct.

2 Q. Are you saying Local 25 has the right to
3 take someone off the APA Transport seniority list?

4 A. No.

5 Q. So if APA Transport doesn't insist on a
6 ten-day suspension, would Local 25 insist that
7 Mr. Goulet serve a ten-day suspension?

8 A. No.

9 Q. If APA Transport doesn't insist on medical
10 documentation, is Local 25 going to insist?

11 A. No. Local 25 doesn't call him to go to
12 work.

13 Q. As of November 2001, based upon your
14 Exhibit 2 to your brief, Mr. Goulet was on the
15 seniority list in Canton for APA Transport, correct?

16 A. I think that was the union's position in
17 the brief.

18 Q. So the answer to the question is indeed he
19 was on the seniority list already as of November of
20 2001?

21 A. His name was placed on a piece of paper.

22 Q. Called the "seniority list"?

23 A. Yes.

24 Q. Are you telling me that Local 25 wanted to

00066

1 take Mr. Goulet off the seniority list?

2 A. No.

3 Q. Did Local 25 have any authority to take

4 Mr. Goulet off the seniority list?

5 A. No. We didn't take him off the seniority

6 list.

7 Q. Did Local 25 submit Mr. Goulet's name to

8 New Penn?

9 A. I have no idea.

10 Q. It didn't, did it?

11 MR. GLUEK: Objection.

12 MS. PENNINI: Objection.

13 A. (No response)

14 Q. Do you have any evidence that it did?

15 A. I don't know.

16 Q. Was it Local 25's job to submit APA

17 employee preferences to New Penn?

18 A. Yes.

19 Q. Was it Local 25's job to submit the APA

20 preferences to New Penn for all employees appearing

21 on the APA seniority list?

22 MR. GLUEK: Objection.

23 MS. PENNINI: Objection.

24 A. I don't know.

00067

1 Q. Who would?

2 A. I don't know.

3 Q. Do you know if Mr. Carnes left Mr. Goulet's
4 name off the APA preference list?

5 A. Do I know?

6 Q. Yes.

7 MS. PENNINI: Objection.

8 A. No, I don't know.

9 Q. When you were preparing the brief that's
10 been marked as Exhibit 12, did you attempt to
11 determine how Mr. Goulet's name was omitted from the
12 call list?

13 A. No.

14 Q. Is there any particular reason why you
15 didn't investigate how Mr. Goulet's name was omitted
16 from the call list?

17 A. No.

18 Q. Do you think it was incumbent upon you as
19 his advocate to find out how Mr. Goulet's name was
20 omitted from the call list?

21 A. No. That was our case.

22 Q. The case was that Mr. Goulet's name should
23 not have been omitted from the call list; that was
24 your case, right?

00068

1 A. That's right.

2 Q. But somebody did omit his name.

3 MR. GLUEK: Objection.

4 MS. PENNINI: Objection.

5 MR. GLUEK: Is there a question?

6 Q. Somebody did omit his name, correct?

7 A. I don't know.

8 Q. Well, you argued that somebody left off his

9 name.

10 MR. GLUEK: Objection.

11 A. I argued a lot of things in this case.

12 Q. Let's go back then. Do you have any

13 evidence that Local 25 ever forwarded Mr. Goulet's

14 name or preference to New Penn?

15 A. No.

16 Q. Do you have any understanding as to why

17 Local 25 did not forward Mr. Goulet's name to New

18 Penn?

19 A. No.

20 Q. Was it because Local 25 --

21 A. I just answered your question.

22 Q. Was it because Local 25 felt that that he

23 should serve a suspension first?

24 MR. GLUEK: Objection.

00069

1 MS. PENNINI: Objection.

2 A. No.

3 Q. Was it because Local 25 felt that he needed
4 to submit medical documentation first?

5 MS. PENNINI: Objection.

6 A. No.

7 MR. LATHROP: I have nothing further.

8 RECROSS EXAMINATION

9 BY MR. GLUEK:

10 Q. Under the collective bargaining agreement,
11 an employer is supposed to give the union seniority
12 lists, correct?

13 A. Yes.

14 Q. It's the union's responsibility, or one of
15 the union's responsibilities is to make sure that
16 those seniority lists are correct?

17 A. No.

18 Q. For what purpose do you get the seniority
19 lists? Why?

20 MR. LATHROP: Objection.

21 MR. GLUEK: What basis, please, so I can
22 correct it?

23 MR. LATHROP: As to his knowledge as to why
24 the employer submits a seniority list.

00070

1 MR. GLUEK: What's objectionable about
2 that?

3 MR. LATHROP: You are talking about the
4 mental rationale.

5 Q. Why in the collective bargaining agreement
6 does the union get a seniority list?

7 MR. LATHROP: I think the appropriate
8 question would be does the collective bargaining
9 agreement state --

10 MR. GLUEK: He already testified it did.

11 MR. LATHROP: It didn't state why.

12 A. First of all, for continuity purposes, I
13 mean, the seniority list is posted at the terminal.
14 Therefore, we get a copy of it, because it's posted.

15 Q. If someone has a problem with where they
16 are placed on the seniority list, they have the
17 ability to file a grievance; is that correct?

18 A. Correct.

19 Q. Through the grievance procedure, that
20 seniority list can be corrected; is that correct?

21 A. Yes.

22 Q. Therefore, the union does have a mechanism
23 to ensure that the seniority lists are correct; is
24 that correct?

00071

1 A. Yes.

2 Q. Now, let's take a look at what was marked
3 as Exhibit 2 to Harrington Exhibit No. 12. Let's
4 assume Exhibit 2 is a correct seniority list.

5 A. Okay.

6 Q. Would it be fair for Mr. Power to have been
7 called by New Penn prior to Mr. Hoyt, No. 10?

8 A. Yes.

9 Q. Even though Mr. Power had less seniority
10 than Mr. Hoyt, it would be fair for him to be called
11 first?

12 A. He could be, yes.

13 Q. On what basis?

14 A. Qualifications.

15 Q. Let's assume the qualifications are the
16 same. Would it be fair for Mr. Power to be called
17 before Mr. Hoyt?

18 A. No.

19 Q. Would it be fair for an individual with no
20 seniority to be called before somebody who's listed
21 on Exhibit 2?

22 A. No.

23 Q. So if Mr. Goulet had no seniority, it
24 wouldn't be fair for him to be called before

00072

1 somebody listed on Exhibit 2?

2 A. That's correct.

3 MR. GLUEK: Nothing further.

4 RECROSS EXAMINATION

5 BY MS. PENNINI:

6 Q. Was it your understanding that APA waived

7 the requirement, that APA ever waived the

8 requirement that Mr. Goulet submit acceptable

9 documentation about his ability to return to

10 unrestricted duties?

11 MR. LATHROP: Objection.

12 A. No.

13 Q. Is it your understanding that APA ever

14 waived the requirement that Mr. Goulet serve a

15 ten-day suspension?

16 MR. LATHROP: Objection.

17 A. No.

18 Q. Were you ever informed by APA Transport

19 that they had waived the requirement that Mr. Goulet

20 present acceptable documentation to the company

21 regarding his ability to return to unrestricted

22 duties?

23 A. No.

24 Q. Did APA ever inform you that Mr. Goulet was

00073

1 not required to serve a ten-day suspension prior to
2 being placed on the seniority list?

3 A. No.

4 MS. PENNINI: That's all I have.

5 REDIRECT EXAMINATION

6 BY MR. LATHROP:

7 Q. Mr. Harrington, did you personally ever
8 challenge the fact that Mr. Goulet's name appears on
9 the APA Canton seniority list for November 2001?

10 MS. PENNINI: Objection.

11 A. No.

12 Q. Do you have any understanding as to whether
13 or not anyone within Local 25 objected to the fact
14 that APA Transport put Mr. Goulet on its November
15 2001 Canton seniority list?

16 A. No.

17 MR. LATHROP: Nothing further.

18 FURTHER RECROSS EXAMINATION

19 BY MS. PENNINI:

20 Q. Mr. Harrington, are you aware of whether
21 this seniority list was ever posted in this form at
22 the APA Transport facility in Canton, Massachusetts?

23 A. No.

24

00074

1 FURTHER REDIRECT EXAMINATION

2 BY MR. LATHROP:

3 Q. Exhibit 2 to your brief to the committee,
4 that is the form of a seniority list that APA
5 normally sent directly to Local 25?

6 A. Yes.

7 MR. LATHROP: Thank you. I have nothing
8 further.

9 (Whereupon the deposition
10 was concluded at 12:06 p.m.)

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1 C E R T I F I C A T E

2 I, MARK A. HARRINGTON, do hereby certify that I
3 have read the foregoing transcript of my testimony,
4 and further certify under the pains and penalties of
5 perjury that said transcript (with/without)
6 suggested corrections is a true and accurate record
7 of said testimony.

8 Dated at _____, this ____ day of _____,
9 2005.

10

11 _____

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1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)

3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 12th day of Oct.,
7 2005, at 10:15 a.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of his knowledge touching and
10 concerning the matters in controversy in this cause;
11 that he was thereupon examined upon his oath, and
12 his examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this ____ day of
21 October, 2005.

22 _____
23 Notary Public

24 My commission expires 4/3/09

CANTON SENIORITY LIST**LOCAL UNION 25 NOVEMBER 2001**

1	Prout, R.	11/12/68
2	Burrill, P.	06/30/70
3	McCaffrey, M.	10/07/70
4	Mastropietro, R.	06/14/73
5	Setterland, D.	11/06/73
6	Loud, D.	01/11/74
7	Petit, A.	03/11/74
8	Petit, R.	09/15/75
9	Durette, M.	09/30/75
10	Hoyt, H.	08/17/76
11	Pitts, R.	08/27/76
12	D'Eramo, M.	02/22/77
13	Sullivan, T.	10/24/77
14	Rabideau, R.	01/04/78
15	Kelley, Jr., W.	03/22/78
16	Monahan, H.	11/14/78
17	Petit, Jr., E.	04/23/79
18	Pickering, G.	08/03/81
19	Tisbert, B.	05/17/83
20	Damlano, J.	07/20/83
21	Gwynn, N.	06/14/84
22	Goulet, G.	06/28/84
23	Cardoza, P.	09/24/84
24	Bouffard, R.	09/30/85
25	Coull, D.	04/06/83
26	McGee, R.	05/20/82
27	Francey, G.	10/26/82
28	Cruise, M.	04/30/84
29	Power, K.	11/15/84
30	Fennelly, E.	02/26/85
31	McGrath, H.	08/26/85
32	Bain, S.	03/09/87
33	Holderried, J.	05/08/89
34	Howe, T.	05/15/89
35	Howe, S.	05/31/90
36	Berry, S.	05/31/90
37	Sullivan, C.	12/09/91
38	MacDonald, J.	12/09/91
39	Hulbert, M.	12/09/91
40	O'Meara, W.	03/01/93

2/8/05 CG 60

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

- - - - -x

:
CRAIG GOULET, :
Plaintiff, :
:
vs. : Civil Action
: No. 04-12577 JLT
NEW PENN MOTOR EXPRESS, INC.;
and TEAMSTERS LOCAL 25, :
INTERNATIONAL BROTHERHOOD O:
TEAMSTERS, :
Defendants. :
:

- - - - -x

DEPOSITION OF GEORGE D. FRANCEY, a witness
called on behalf of the Plaintiff, taken pursuant to
the Federal Rules of Civil Procedure, before Ken A.
DiFraia, Registered Professional Reporter and Notary
Public in and for the Commonwealth of Massachusetts,
at the Offices of Scott A. Lathrop & Associates,
122 Old Ayer Road, Groton, Massachusetts, on
Wednesday, October 12, 2005, commencing at 9:10 a.m.
PRESENT:

Scott A. Lathrop & Associates
(by Scott A. Lathrop, Esq.)
122 Old Ayer Road, Groton, MA 01450,
for the Plaintiff.
Frantz Ward LLP
(by Carl H. Gluek, Esq.)
2500 Key Center, 127 Public Square,
Cleveland, OH 44114-1230, for the Defendant
New Penn Motor Express Inc.

(Continued on Next Page)

00002

PRESENT: (Continued)
Dwyer, Duddy and Facklam
(by Kathleen A. Pennini, Esq.)
Two Center Plaza, Suite 430, Boston, MA
02108-1804, for the Defendant Teamsters
Local 25, International Brotherhood of
Teamsters.

ALSO PRESENT: Craig Goulet

* * * * *

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I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

GEORGE D. FRANCEY

BY MR. LATHROP 5

BY MR. GLUEK 29

* * * *

E X H I B I T S

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11/01

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1 P R O C E E D I N G S

2 MR. LATHROP: Any stipulations?

3 MS. PENNINI: Yes.

4 MR. GLUEK: What are they?

5 MS. PENNINI: Objections, except as to

6 form, reserved for trial.

7 MR. LATHROP: And shall we reserve motions

8 to strike?

9 MS. PENNINI: Yes.

10 MR. LATHROP: How about reading and

11 signing?

12 MS. PENNINI: 45 days. We can waive the

13 notary.

14 MR. LATHROP: If it's not signed within 45

15 days of receipt, the reading and signing are deemed

16 waived?

17 MS. PENNINI: Okay.

18 GEORGE D. FRANCEY

19 a witness called for examination by counsel for the

20 Plaintiff, having been satisfactorily identified by

21 the production of his driver's license and being

22 first duly sworn by the Notary Public, was examined

23 and testified as follows:

24

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1 DIRECT EXAMINATION

2 BY MR. LATHROP:

3 Q. Morning, sir.

4 A. Morning.

5 Q. Could you please state your full name and
6 address for the record.

7 A. George Douglas Francey, 324 Flagg Street,
8 Bridgewater, Mass.

9 Q. What is your date of birth, sir?

10 A. 3/17/55.

11 Q. Are you or have you ever been a member of
12 Local 25 of the Teamsters?

13 A. Yep.

14 Q. That's a yes?

15 A. Oh, yes.

16 Q. Are you currently a member?

17 A. Yes.

18 Q. When were you first a member of Local 25?

19 A. I want to say it was November '78. And I
20 was in Local 170 for four years, so from '82 to '86.

21 Q. How did you happen to join Local 25?

22 A. Working for Beacon Fast Freight. It was a
23 union barn. I had to join.

24 Q. Where were you based when you worked for

00006

1 Beacon Fast Freight?

2 A. Avon, Mass.

3 Q. How long did you work for Beacon Fast
4 Freight?

5 A. Until '82.

6 Q. What happened in '82?

7 A. Work was falling off, so I started sparing
8 over at Sanborn's. Then I made the list over there,
9 so I transferred the locals and went over to
10 Sanborn's.

11 Q. What's the full name of Sanborn's?

12 A. Sanborn's Motor Express.

13 Q. Where were you based?

14 A. I worked out of the Wrentham terminal, but
15 their headquarters was in Portland, Maine.

16 Q. Wrentham, Mass.?

17 A. Yes.

18 Q. When did you make the list?

19 A. Let's see, I think it was in October of
20 1982.

21 Q. How long did you continue to work for
22 Sanborn's?

23 A. Until APA Transport bought Sanborn's Motor
24 Express in I believe October or thereabouts of '86.

00007

1 Q. Where were you first based when you worked
2 for APA Transport?

3 A. Canton, Mass.

4 Q. How long did you work in Canton, Mass.?

5 A. I worked in Canton until APA closed their
6 doors in 2002, February.

7 Q. Where did you work after that?

8 A. I currently work at Atlantic Plant
9 Maintenance in Watertown.

10 MR. GLUEK: Could you repeat that.

11 THE WITNESS: Atlantic Plant Maintenance in
12 Watertown, Mass.

13 Q. Is that a union?

14 A. Yes, Local 25.

15 Q. When did you start with Atlantic Plant
16 Maintenance?

17 A. Let's see, APA went out in February. I
18 spared around for a while, like working where I
19 could get work. I was not on anybody's list, and I
20 started there in May of 2002.

21 Q. What do you do for them?

22 A. Rigor, truck driver.

23 Q. You currently work for them?

24 A. Yes.

00008

1 Q. Have you held any positions in Local 25?

2 A. I was the steward at the APA facility from
3 February 2001 until we went out of business in
4 February of 2002. It was just about a year.

5 Q. Did you hold any other positions with
6 Local 25?

7 A. No.

8 Q. Was that an elected position?

9 A. Yep.

10 Q. Is that yes?

11 A. Yes.

12 Q. Are you familiar with the plaintiff in this
13 case, Craig Goulet?

14 A. Yes.

15 Q. When did you first become familiar with
16 Craig Goulet?

17 A. When did I first meet him?

18 Q. Yes.

19 A. At Sanborn's in Wrentham probably. Was
20 that 1982? Yes.

21 Q. Was he working at the time?

22 A. Yes. That's how I met him.

23 Q. Let's talk about APA Transport and its
24 closure.

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1 A. Sure.

2 Q. How did you first come to learn that APA
3 Transport would be closing?

4 A. I came in off the street one night, and
5 they said, "We're out of business."

6 Q. Who is that?

7 A. It was Valentine's Day. The terminal
8 manager told us.

9 Q. Who was the terminal manager?

10 A. What is the name... I know it. Give me a
11 minute here. He was not terminal manager that long,
12 only maybe a year before that, if that. What was
13 the name... It will come to me eventually.

14 Q. Did you have some communications with the
15 Local 25 leadership with regard to --

16 A. Oh, yes. Mark Harrington was the business
17 agent for us at the time.
18 Paul Dubiel was the terminal manager's
19 name.

20 Q. You said Mark Harrington was the business
21 agent?

22 A. Right.

23 Q. He was the business agent covering APA
24 Transport?

00010

1 A. Yes.

2 Q. How long had he been the business agent for
3 APA Transport, as you recall?

4 A. I want to say he was always our business
5 agent since he was a business agent. I can't
6 remember exactly.

7 We were there for, what 16, 17 years, as
8 far I remember. I think maybe T. Eddie Sheehan
9 might have been a business agent before him. When I
10 was the steward, Harrington was the business agent,
11 and for the steward before me, Harrington was the
12 business agent.

13 Q. Did you know a William Carnes?

14 A. Not personally. I know he was the vice
15 president of Local 25.

16 Q. After you heard from the terminal manager
17 that APA Transport was closing, did you have any
18 communications with Mr. Harrington?

19 A. Oh, yes.

20 Q. What communications do you recall having
21 with Mr. Harrington relative to the closing?

22 A. Just in general. I mean, I can't remember
23 exactly. Obviously, you know, he said, "Hey, we're
24 out of business."

00011

1 He, you know, communicated to me that New
2 Penn Motor Transport was offering work to APA
3 employees on a seniority basis. There were two
4 terminals that you had your choice of. There was
5 Billerica or Cranston, I think it was called. The
6 Providence terminal I believe was in Cranston. One
7 of my duties as the steward was to take the
8 seniority list and ask everybody where they wanted
9 to go, which I did.

10 Q. When you communicated with Mr. Harrington
11 concerning the idea that New Penn Motor Express was
12 offering work at two different terminals, was
13 Mr. Harrington telling you this in person, by
14 telephone, by letter, or some other means?

15 A. Could have been in person, could have been
16 by telephone. I mean, he was there. He came down
17 to the barn a few times.
18 They told us on Valentine's Day they were
19 closing the doors the following Tuesday. I don't
20 remember whether Valentine's Day was a Wednesday or
21 Thursday. The following Tuesday, the doors were
22 closing.
23 Of course, we had to get rid of freight in
24 the system. Guys started getting laid off. That

00012

1 goes by seniority.
2 Being the steward, the steward has super
3 seniority for layoff purposes. He wanted me to be
4 the last guy out of there because he wanted to be
5 sure APA -- they had a reputation for not doing
6 things on the up and up. I mean, what are you going
7 to do, we're going out of business. That's what he
8 wanted me to do. I mean, it was work for me. I
9 stayed.

10 I think I was the last one to work there
11 that Friday after Valentine's-- not the Friday
12 after. It was a Wednesday or Thursday. The
13 following week I think was my last day on a Friday,
14 whatever that was. I would have to look at a
15 calendar.

16 Q. You had a seniority list?

17 A. Yes.

18 Q. Where did the list come from?

19 A. APA.

20 Q. At some point in time, was there some sort
21 of vote?

22 A. A vote? About what?

23 Q. Any sort of ratification vote?

24 A. Of what?

00013

1 Q. With regard to New Penn.

2 A. What do you mean? I'm not following you.

3 What's a ratification vote?

4 Q. Did you have a meeting with --

5 A. Me, no. With New Penn, no.

6 Q. Did you attend a meeting of APA drivers?

7 A. Oh, yes. We went to the union hall, yes.

8 Q. Let's talk about that. Do you recall when

9 this meeting at the union hall took place?

10 A. Not the exact day, no.

11 Q. Was it before your last day at APA?

12 A. Good question. I don't remember.

13 Q. But do you recall that there was --

14 A. I mean, I could not swear to when it was.

15 You know what I'm saying?

16 Q. You do recall a meeting at the union hall?

17 A. Yes.

18 Q. For the record, where is the union hall?

19 A. Charlestown. I think it's at 544 Main

20 Street.

21 Q. Who was present at this meeting?

22 A. Mark Harrington. This is to the best of my

23 recollection. I believe Shawn O'Brien was there.

24 I'm pretty sure George Cashman was there.

00014

1 Q. Do you know if Mr. Carnes was there?

2 A. Good possibility. I don't remember talking
3 to him, but he was probably there.

4 Q. Could you identify for the record who
5 George Cashman was at the time.

6 A. President of Local 25.

7 Q. And who was Shawn O'Brien?

8 A. Business agent.

9 Q. Do you know for what --

10 A. Oh, he didn't have anything to do with us.
11 I mean, these guys were there simply because they
12 are the Local 25 leadership.
13 APA going out of business was a pretty big
14 hit for Local 25 because we had two terminals, one
15 in Dracut and then the Canton facility. You are
16 talking, what, 72 guys in Canton, and I don't know
17 how many up in Dracut. There was probably over 30
18 anyway.

19 Q. Was this meeting at the union hall
20 therefore for the Dracut and Canton APA drivers?

21 A. I believe we were all together, I believe.

22 Q. When you say "all together," you mean both
23 the Dracut and the Canton employees?

24 A. I believe so.

00015

1 Q. Do you recall what was said or done during
2 this meeting?

3 A. We talked about getting work, because, I
4 mean, everybody was out of a job. I believe that
5 was probably one of the times that they mentioned
6 New Penn offering work on a seniority basis to APA
7 employees.

8 Q. Do you know if a seniority list was shown
9 or used at this meeting?

10 A. At this meeting, I don't recall. I don't
11 recall.

12 Q. At this meeting, did any of the Local 25
13 members express their preferences for New Penn
14 terminals?

15 A. No. The way I did it, in Canton, I had a
16 copy of the seniority list, and I went to everybody,
17 asked them what terminal they wanted to go to. I
18 wrote it down next to their name. When I was done
19 with that, I handed it into Mark Harrington. That's
20 the last I had anything to do with it.

21 Q. Did you do that before or after --

22 A. No. While I was working, not at this
23 meeting.

24 Q. Let me ask the full question.

00016

1 A. Go ahead.

2 Q. Did you do it before or after this meeting?

3 A. Probably before and after. You know what
4 I'm saying? It was like as I could get ahold of
5 people. Like the guys were still coming into work
6 until everything dried up. I would get ahold of
7 them and ask them. Some of them I may have called
8 on the phone.

9 This went on continually until probably the
10 last day I was there, getting everybody's pick.

11 Q. At this union meeting, do you recall
12 whether or not Craig Goulet was discussed?

13 A. I can't remember, to tell you the truth. I
14 had not seen him in years, and I know I communicated
15 with him because -- I don't remember whether I
16 called him or he called me, but he gave me a pick.
17 I wrote it down.

18 Because his name was not carried on the
19 seniority list. They took it off long before I was
20 the steward. I really never understood what his
21 position was, whether he was on comp, whether he was
22 off. I didn't think he was off the list. I knew he
23 had a case against APA.

24 You know, I mean, officially his name was

00017

1 not on the list. I wrote his name in on the bottom
2 where he wanted to go and his phone number. I drew
3 an arrow up the side. I inserted it into where his
4 name should be on the seniority list.

5 Q. Do you recall when it was you contacted
6 or --

7 MR. GLUEK: Objection.

8 Q. Let me restate it. Do you recall when you
9 were in contact with Mr. Goulet?

10 A. No.

11 Q. Do you recall if it was before or after
12 this meeting?

13 A. I don't recall, to tell you the truth,
14 honestly.

15 Q. Correct me if I'm wrong, but I believe you
16 said the contact was by telephone?

17 A. It would have been, I believe. I mean, I
18 had not seen him. I don't recall seeing him at the
19 meeting. Maybe he was there. I really don't
20 recall.

21 Q. Correct me if I'm wrong, but you said in
22 this conversation you had with Mr. Goulet, his
23 preference for terminals with New Penn was
24 expressed?

00018

1 A. Yes.

2 Q. Do you recall the terminal that he
3 selected?

4 A. Yes. I have a copy. I have the original
5 right here. It's Billerica.

6 Q. May I see that.

7 A. Yes. That's the original handwritten one
8 that I used.

9 MR. LATHROP: I'm going to make copies of
10 this.

11 (Pause)

12 Q. Mr. Francey, let me return the original to
13 you and have this copy marked.

14 (Document marked as Francey
15 Exhibit 1 for identification)

16 Q. Mr. Francey, I'm showing you a photocopy of
17 what you had just handed me. We marked it for
18 purposes of identification as Exhibit No. 1. This
19 is a photocopy of the document you just handed me,
20 correct?

21 A. (Examines document) Correct.

22 Q. Let's now talk a little bit about this
23 document. In terms of what I will call the
24 typewritten portion, where did that come from?

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1 A. APA.

2 Q. Do you remember when you got it?

3 A. Well, they always have to have the
4 seniority list posted on the bulletin board. I may
5 have just photocopied that. I might have got one
6 out of the office.

7 I mean, I would have had one as the steward
8 anyway. I don't know whether I had been carrying
9 this one all along or what.

10 Q. The handwriting that appears on this
11 document, is that all yours?

12 A. That's all mine.

13 Q. How did you get Mr. Goulet's telephone
14 number?

15 A. I don't remember whether he called me or I
16 called him. I know I spoke to him.

17 Q. By B-i-l --

18 A. That stands for Billerica. If you look at
19 the top, you will see Providence. B-i-l is for
20 Billerica.

21 Q. When you say between 28, is that 28 and
22 29 --

23 A. That's where his name used to be on the
24 seniority list.

00020

1 Q. I take it you attempted to go through
2 approximately 75 persons to get their preferences?

3 A. Yep.

4 Q. That's a yes?

5 A. Yes.

6 Q. After you got everyone's preference, you
7 gave this document to Mr. Harrington?

8 A. Yes. I gave him a copy.

9 Q. You kept the original?

10 A. That's the original that you just
11 photocopied.

12 Q. Did you have any later dealings with
13 Mr. Goulet after you got his preference?

14 A. I don't recall any.

15 Q. After you gave this list to Mr. Harrington,
16 did you do anything further in terms of working on
17 employees' selection of New Penn preferences?

18 A. No, because I was nobody after -- APA went
19 out of business. I was not steward anymore. I was
20 trying to get myself a job.

21 Q. You did not go to New Penn?

22 A. No. They called me, but I was working at
23 the time.

24 Billerica is just too long of a haul for

00021

1 me. I didn't want to change locals. Cranston would
2 have been just as far. By then I was working in the
3 rigging business, and I kind of liked it.

4 Q. Help me out here. I assume your name is on
5 this list?

6 A. Yes.

7 Q. What number are you?

8 A. Good question. I don't have my glasses.
9 Let's see here, where am I... Right here. I'm
10 number -- what's that? I can't read it.

11 Q. 27?

12 A. I believe so, yes.

13 Q. You had at least listed Providence for
14 yourself?

15 A. I did, but I had no intention of going
16 there.

17 Q. You did get a call?

18 A. They did call me. I believe it was the
19 following, I want to say, June maybe. It was warm
20 weather by the time they got around to calling me.
21 Like I said, I was already employed in the
22 rigging business, so I was not interested.

23 Q. At some point in time, did you sign a
24 statement?

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1 A. I would have to look at it, because she
2 said that to me (indicating). I don't recall
3 signing it.

4 Q. She being Attorney Pennini?

5 A. Yes.

6 (Document marked as Francey
7 Exhibit 2 for identification)

8 Q. Mr. Francey, I'm showing you what was
9 marked as Exhibit 2 in this deposition. This
10 purports to be something signed by you on July 22,
11 2004.

12 A. (Examines document) Definitely.

13 Q. Is that your signature?

14 A. It is my signature.

15 Q. That's an accurate statement, that you
16 spoke with Craig Goulet regarding the closure of
17 APA?

18 A. Sure, that's an accurate statement.

19 Q. It says, "When I spoke with Mr. Goulet, he
20 indicated to me his choice was the Billerica MA
21 terminal"?

22 A. Yes.

23 (Document marked as Francey
24 Exhibit 3 for identification)

00023

1 Q. Mr. Francey, I'm showing you what was
2 marked as Exhibit 3, which is another purported
3 seniority list for Canton, Local 25, November 2001.
4 Have you ever seen this document before?

5 A. (Examines document) Probably in the past,
6 yes. That appears to be an older seniority list.

7 Q. When you say "older," what do you mean by
8 older?

9 A. Well, there doesn't appear to be as many
10 names on it as on this one, just looking at it
11 (indicating). Yes, it's from November 2001.

12 Q. The list that you used, is it dated?

13 A. No.

14 Q. Do you see Mr. Goulet's name on Exhibit 3?

15 A. Oh, yes.

16 Q. Do you have any understanding as to who put
17 together Exhibit 3?

18 A. I would not know.

19 Q. Did you have any communication with anyone
20 other than Mark Harrington concerning APA employees'
21 preference with regard to the New Penn terminal?

22 A. No. I mean, I had no power. All I was
23 doing was making out a list for him basically.

24 Q. Just to be clear, you spoke to no other

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1 officer of Local 25 with regard to the preferences
2 of the Canton employees?

3 A. I don't recall speaking with anybody. I
4 don't know why I would have spoke with anybody else.
5 Maybe in passing, maybe in conversation, but
6 officially? I don't recall.

7 Q. Did you ever have any dealings with New
8 Penn representatives?

9 A. No.

10 Q. Did you ever have any dealings with APA
11 representatives with regard to APA employees and
12 their New Penn selections?

13 A. No.

14 Q. Other than giving Exhibit 1 to
15 Mr. Harrington, did you do anything else with regard
16 to employee selection?

17 A. No.

18 Q. Did Mr. Harrington ever ask you any
19 questions about Exhibit 1?

20 A. I don't recall any.

21 Q. Did he discuss Craig Goulet with you?

22 A. I don't recall discussing Craig Goulet at
23 all. He may have just in passing, but I don't
24 recall it.

00025

1 Q. Do you know who the steward was in the
2 Dracut terminal?

3 A. Oh, I can see his face... I can't recall
4 his name. I didn't know him that well.

5 MR. LATHROP: Let me just take a few
6 minutes.

7 (Recess)

8 BY MR. LATHROP:

9 Q. Looking at Exhibit 1, Mr. Francey, you
10 talked about inserting Craig Goulet's name there.
11 Do you recall whether or not there was any
12 discussion among APA employees about --

13 A. Where his name was on the seniority list?
14 I would have had to have asked someone, because I
15 didn't know.

16 I mean, I knew he was a Sanborn employee,
17 but I was not sure exactly where his name was
18 because his name had not been on there for many
19 years. I don't know why APA took his name off of
20 the seniority list, but it was not carried. A lot
21 of years went by.

22 I don't recall. I either put it there
23 because that's what Craig told me where he was or
24 whether the former steward told me where he was or

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1 whether the guys in general just said that that's
2 where he should be. I don't recall.

3 And I may have injected his name on the
4 wrong spot, but that was an accident if I did. At
5 least I got the name on there.

6 Q. Do you recall whether or not there was any
7 discussion about the propriety of Craig's name being
8 on the list?

9 A. The way it was explained to me is that -- I
10 knew he was out on a comp case, and he was hurt in I
11 believe '87. I don't know, but that's my
12 recollection. I knew he had a case going against
13 APA.

14 Before Dubiel was the terminal manager,
15 John Conti was. I remember him calling me into the
16 office and asking me who Craig Goulet was because
17 his name wasn't on the seniority list. I guess he
18 had just found out that Craig must have won his case
19 against APA, was supposed to be coming back to work,
20 because this was -- well, I don't know how many
21 years that was, 14, 15 years. John Conti, you know,
22 was not terminal manager when Craig Goulet worked
23 there.

24 I remember Harrington telling me the same

00027

1 thing in a telephone conversation, that Craig Goulet
2 won his case and that he was going to be coming back
3 to work. Everybody was kind of surprised, seeing he
4 had been gone for so many years.

5 That's what I recall about hearing that.

6 That was not very long before we went out of
7 business. It was a matter of months, but I can't
8 remember exactly, you know, whether it was six
9 months, three months. I think it could have been
10 six months, but I don't know.

11 Q. At the time you heard about the APA
12 closure, do you remember whether there was any
13 discussion among the APA men about Craig's name
14 being on the seniority list?

15 A. A lot of them, the older guys, like knew he
16 existed; the younger guys never saw his name
17 probably.

18 Q. Do you recall whether there were any
19 complaints about him being on the list?

20 A. No. Before I was the steward, that was not
21 something that I concerned myself with. His name
22 had not been carried on there for a long time. I
23 don't recall when they took it off.

24 Now, I'm talking about the seniority list

00028

1 that they post on the bulletin board. I mean,
2 that's the only seniority list I ever saw.
3 What APA had in their office, what Local 25
4 had in their office, I have no clue. I only go by
5 what they post and I just assume that that's the
6 official seniority list, as far as I know.

7 Q. Just to be clear, Exhibit 3, do you
8 recognize that?

9 A. (Examines document) I have never seen
10 this, but I see there's a mistake here where his
11 name should be, if this is accurate, because I have
12 him a few slots below that. I mean, that would have
13 been a mistake, an innocent mistake. I mean, I was
14 trying to do the right thing here.

15 Q. At the union hall meeting, were there
16 seniority lists that were presented at that time?

17 A. I don't recall, to be honest. I don't
18 recall much of that meeting. Everybody was kind of
19 bummed out, you know what I mean, after losing your
20 job after 18 years. Everybody is worried about
21 where they are going to go.
22 I really don't recall much about that
23 meeting.

24 MR. LATHROP: I have nothing further.

00029

1 CROSS EXAMINATION

2 BY MR. GLUEK:

3 Q. Good morning. My name is Carl Gluek. I
4 represent New Penn.

5 A. Morning.

6 Q. If you could look at Exhibit 1 and
7 Exhibit 3. They are the two different seniority
8 lists. I notice that Exhibit 3 is different in form
9 in terms of the information that's provided from
10 Exhibit 1; is that correct?

11 A. Wait a minute. Is this 3?

12 Q. Correct.

13 A. And this is 1?

14 Q. Correct.

15 A. Yes, I see that, too.

16 Q. You previously testified about their being
17 a seniority list that is posted. In your mind,
18 that's the official one, correct?

19 A. That is the only one I ever saw.

20 Q. The one that's marked Exhibit 3, is that in
21 the format that would be posted, or is Exhibit 1 in
22 the format that would be posted?

23 A. This is the one that would be posted, but
24 APA would have probably cut the phone numbers off

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1 (indicating).

2 Q. Just so the record is clear, you were
3 pointing at Exhibit 1?

4 A. This one, yes, Exhibit 1.

5 Q. If you could look at Exhibit 1, No. 36.
6 What's that handwriting say?

7 A. I don't have my glasses on. Good question.
8 I can't see.

9 Q. Maybe you can go over by the light.

10 A. Well, I need something. 36?

11 Q. Correct.

12 A. Let's see, 36... "Steve Hurley," oh, "Not
13 going" is what I wrote. He didn't make a pick.

14 Q. He decided he didn't want to go to either
15 terminal? He had no preference?

16 A. Right.

17 Q. Could you look at No. 48 and tell me what
18 that says.

19 A. "Dennis Carvalho, No. 48, Not going."

20 Q. He, too, decided he didn't want --

21 A. He didn't want any part of it. He must
22 have got another job.

23 Q. No. 66, I notice that person is crossed
24 out?

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1 A. Oh, yes. I don't know whether he was fired
2 or whether he quit. We couldn't get ahold of him.
3 This was even before this situation developed with
4 New Penn, too. He was not returning calls. I don't
5 know if he voluntarily quit or whatever. We
6 couldn't get ahold of him.
7 He had problems. He had issues with APA.
8 I could not get ahold of him even before this
9 because we wanted to know if he was coming back to
10 work.

11 Q. 75, the handwriting, is that supposed to be
12 B-i-l?

13 A. No. 75?

14 Q. Yes.

15 A. Yes, Billerica, B-i-l.

16 Q. Then there were several people that
17 retired. Is that Ret --

18 A. Yes, R-e-t is retirees. They decided to
19 take a pension.

20 Q. They had no preference then?

21 A. No, no. They didn't pick anything.
22 There's one with an arrow stick, Mark
23 Hurley. He was in the Gulf. He was on active duty.
24 I couldn't get ahold of him. I never heard from him

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1 again.

2 Q. You can sit down now. I'm done with the
3 list.

4 A. Thank you.

5 Q. With respect to Mr. Goulet, did you
6 unilaterally decide to contact him or put him on the
7 list, or did somebody tell you to put him on the
8 list?

9 A. You know, I don't recall the exact events
10 that led up to that. I may have discussed it with
11 the former steward. He may have said, "Technically
12 he's still on the list. We don't know."
13 I don't recall exactly. I knew, though,
14 that if he had won his case, I knew that from, you
15 know, previously, that he was coming back to APA.
16 Why he hadn't come back, I never knew. I
17 mean, you know, it was just, you know, scuttlebutt,
18 or whatever you want to call it, that he was not
19 medically cleared to come back or whatever, and then
20 in the interim, we go out of business.
21 I must have thought it was the right thing
22 to do, though.

23 Q. Just to make sure I understood the
24 testimony, you had no discussions with any

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1 representative of New Penn with respect to anybody's
2 preference?

3 A. No. That would not have been my job.

4 MR. GLUEK: Nothing further.

5 MS. PENNINI: May I have a couple of
6 minutes.

7 MR. LATHROP: Sure.

8 (Pause)

9 MS. PENNINI: I have no questions.

10 (Whereupon, the deposition

11 was concluded at 9:56 a.m.)

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1 C E R T I F I C A T E

2 I, GEORGE D. FRANCEY, do hereby certify that I
3 have read the foregoing transcript of my testimony,
4 and further certify under the pains and penalties of
5 perjury that said transcript (with/without)
6 suggested corrections is a true and accurate record
7 of said testimony.

8 Dated at _____, this ____ day of _____,
9 2005.

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1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)

3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 12th day of Oct.,
7 2005, at 9:10 a.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of his knowledge touching and
10 concerning the matters in controversy in this cause;
11 that he was thereupon examined upon his oath, and
12 his examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this ____ day of
21 October, 2005.

22 _____
23 Notary Public

24 My commission expires 4/3/09

FEBRUARY 13, 2002

**AGREEMENT BETWEEN
THE TEAMSTERS NATIONAL FREIGHT
INDUSTRY NEGOTIATING COMMITTEE
AND NEW PENN MOTOR EXPRESS, INC.**

1. APA has notified TNFINC that the company intends to cease operations immediately. Absent the efforts contemplated by this Agreement, APA's existing customers will be divided among many competitors, most of them non-union regional carriers. This will result in the loss of many NMFA-covered jobs in the industry. New Penn Motor Express (NPME) had no involvement in APA's decision to terminate operations and has no independent obligation, contractual, statutory or otherwise, to APA, TNFINC or APA's employees in connection with this closure.

2. After being advised of APA's decision to close, however, NPME began negotiations with APA to explore the possibility of acquiring certain customer information. Obtaining this customer information would allow NPME to capture a portion of APA's LTL business and keep that business with a NMFA carrier. Any arrangement between NPME and APA regarding customer information is contingent upon approval of this Agreement by TNFINC.

3. Under the contingent agreement between NPME and APA, NPME is seeking customer information and access. NPME is not a purchaser and does not seek to purchase any of APA's equipment or terminals from APA. NPME is not seeking or participating in any merger or acquisition of APA or any of its rights or authority or stock. NPME is not the legal successor employer of APA.

4. NPME does not believe its contingent agreement with APA creates any obligation to TNFINC or to APA NMFA employees, either legally or under the NMFA. However, NPME will extend an opportunity to those APA NMFA employees who are employed in the local supplemental areas where NPME has an established terminal operation to become NPME employees under terms and conditions hereinafter described. In return for extending such opportunities, TNFINC will agree that NPME has fulfilled all contractual or legal obligations, if any, to TNFINC and the APA NMFA employees.

5. NPME's discussions with APA regarding its customer lists and NPME's offer to extend opportunities to APA NMFA employees is voluntary. NPME is undertaking these efforts because it believes there is some benefit to APA NMFA employees as well as a benefit to NPME. However, NPME has negotiated with APA contingent upon reaching agreement with TNFINC. Absent such agreements and approvals, NPME will abandon any further discussions with APA and will not extend the opportunities outlined herein, and shall have no obligation to TNFINC or the APA NMFA employees.

6. Because of the serious and urgent nature of APA's current financial condition and the need to avoid the immediate erosion of APA's customer base, the timing of this agreement is of the essence.

7. As of February 20, 2002 APA will cease to make any pick ups of LTL freight. APA will continue to make deliveries of that freight in their system. It is not the intent or the plan of NPME to deliver any APA freight but will make itself available to do so on a limited basis.

8. Following the termination of APA's operations, NPME will provide opportunities to APA NMFA employees as described herein:

a. NPME and APA have terminals in different locations. NPME will provide to TNFNC and APA a list of its terminals and a general description of its pick up and delivery territory for each terminal as well as will advise which NPME terminals have road operations and which NPME terminals do not in an effort to assist APA NMFA employees.

b. Thereafter each APA NMFA employee, whether active or inactive, employed in the same local supplemental area where NPME has existing direct terminal operations, shall have the right to place his/her name on the call list of only ONE NPME terminal (or the classification seniority list, where applicable) within the same local supplement where they currently are employed. APA NMFA over-the-road drivers, active or inactive on separate over-the-road seniority at the Buffalo, NY, Philadelphia, PA and North Bergen, NJ terminals, shall only have the right to place his/her name on the over-the-road terminal seniority call list at one of the following NPME terminals where such same separate seniority exists. Albany, NY, Cinnaminson, NJ (Philadelphia area), Newburgh, NY and Trenton, NJ. (Footnote: In the event NPME opens a Burlington VT terminal, APA NMFA employees on the Burlington VT terminal seniority list shall be provided an opportunity to place their names on the list for the NPME Burlington VT terminal and gain seniority in accordance with the terms of this Agreement). NPME does not have any operations in Central States, nor does NPME have any operations in the Maritime Provinces of Canada as does APA, and thus those APA NMFA employees are not covered by this Agreement. It is clearly understood that during the period between the date of APA's termination of operations and the effective date of this Agreement, NPME shall be able to utilize APA NMFA employees as necessary without regard to seniority.

c. No APA NMFA employee shall be required to place his/her name on any NPME terminal call list. NPME shall have no obligation to any APA NMFA employee who chooses to not place his/her name on a NPME terminal call list by March 1, 2002. Additionally, NPME shall have no obligation to APA NMFA employees until TNFNC provides the APA NMFA terminal selection call lists in accordance with this Agreement.

d. When an APA NMFA employee places his/her name on a NPME terminal call list, it will appear below all NPME employees names on that terminal seniority list (end-tailed). APA NMFA employees shall be arranged (and called as casuals) according to their current APA NMFA seniority. If more than one employee has the same seniority date, their positioning on the list will be decided by "coin-tossing" conducted by union officials. NPME is not obligated to hire any APA employee not covered by the NMFA.

e. Employees who are on a NPME terminal call list, will be offered work in accordance with their seniority position and qualifications. NPME shall not be penalized for passing an employee for work opportunity if the employee cannot perform all of the duties required of the job being filled or until APA NMFA employees meet all government pre-employment requirements.

f. APA NMFA employees shall have work opportunity ahead of NPME casual employees, but shall not have work opportunity ahead of any probationary or preferred casual employees, if applicable.

g. APA NMFA employees added to the NPME terminal call lists as described above shall be treated and paid as casual employees in accordance with the local supplement and shall establish seniority at NPME in accordance with the following provision. Any APA NMFA employee who works thirty (30) days within any two (2) consecutive calendar month period shall be deemed to have obtained seniority and shall be placed on the NPME seniority list in accordance with that established seniority date, end-tailed after the NPME seniority employees on such seniority list.

h. NPME shall only be obligated to offer work to APA NMFA employees as outlined above until March 31, 2003 at which time such obligation will no longer exist.

If during the term of the current 1998-2003 NMFA, but not later than March 31, 2003, the list of former APA NMFA employees at any terminal is exhausted, those APA NMFA employees on other terminal lists in that local supplement, who have not obtained seniority at NPME, will be offered a second opportunity to place their name on the call list of such terminal.

i. APA NMFA employees on a NPME terminal call list shall be paid in accordance with the casual rate listed in the NMFA until such time as they obtain NPME seniority. Thereafter they shall be paid ninety (90%) of the current NMFA rate for the first six (6) months and thereafter, one-hundred percent (100%) of the current rate in effect.

j. Any APA NMFA employee who achieves seniority status at NPME and qualifies for vacation will receive one (1) bonus week of vacation in addition to the vacation earned under the local supplement unless or until such APA NMFA employee qualifies for three (3) weeks vacation, in which case the bonus week shall no longer apply. Under no circumstances shall any APA NMFA employee receive more than one bonus week of vacation in any vacation year. The vacation year being contract or calendar in accordance with the Local Supplemental Agreement.

k. NPME shall have no obligation to relocate any APA NMFA employee.

l. NPME shall have no responsibility, obligation or liability for any claim or for anything of any kind or nature regarding or involving APA NMFA employees added to NPME seniority lists as described prior to the time they are added to such NPME seniority list. This includes but is not limited to, unemployment or workers compensation claims, short-paid or

underpaid wages, short-paid or under paid health and welfare or pension contributions, any unfunded or withdrawal pension liability, or claims of any kind against APA or others.

m. NPME will make contributions for each APA NMFA employee into the respective Health and Welfare and Pension fund where such APA NMFA employee is currently enrolled. All payments of Health and Welfare and Pension contributions made by NPME on behalf of the APA NMFA employee shall be made in accordance with the requirements of the NMFA and applicable Local Supplements. NPME shall not be obligated for Health and Welfare and Pension contributions on behalf of any APA NMFA employee on disability or workers compensation.

n. APA NMFA employees added to the NPME seniority lists shall be eligible to participate in the Teamsters 401-K program as do other NPME employees.

8. It is acknowledged that the benefits provided to the APA NMFA employees under this Agreement are greater than would otherwise be provided under the NMFA for these employees under these circumstances, and that NPME has fulfilled any legal or contractual obligation it had or may have to these APA NMFA employees.

9. This Agreement will become effective February 25, 2002, but only if (i) there is an agreement finalized between NPME and APA regarding customer lists and (ii) there is approval by the affected APA NMFA employees.

TNFENC

NEW PENN MOTOR EXPRESS, INC.

Phil Young - Co-Chairman

Stephen M. O'Kane - President

James McCall - IBT Counsel

John Ring - Counsel

NO	NAME	ADDRESS	CITY/STATE	ZIP	DAY	PHONE
1	Ret. ROBERT ROBERT	31 SPRING ST	BRAINTREE, MA	02178	1/1/78	
2	PROV. BURRILL, PETER	8 GREAT WILKES CIRCLE	NORTON, MA	02766	6/3/70	508-285-0452
3	BIL McCAFFREY, MICHAEL	20 B SHAW ST	BRAINTREE, MA	02104	10/7/70	781-840-9223
4	Ret. BURROUGHS, RICHARD	215 FOREST TRAIL	HANSON, MA	01341	6/14/73	781-447-9455
5	Ret. BERLAND, DAVID	192 JANE ROAD	HANOVER, MA	02339	11/5/73	781-871-3524
6	Ret. LUDWIG, DONALD	580 HINDS CREEK STREET	ANDOVER, MA	02331	1/11/74	781-671-0416
7	Ret. PETER, ALAN	11 HUNTER HILL	WENDELL, MA	02376	3/11/74	781-333-8377
8	BIL PETER, ROBERT	145 HIGHLAND AVE	QUINCY, MA	02169	9/15/75	781-471-0098
9	PROV. BURRILL, MICHAEL	111 FORD STREET	SWANSEA, MA	02577	9/30/75	508-874-7683
10	Ret. ROY, BERTRAM	21 GARFIELD STREET	ROXBORO, MA	02035	8/17/76	508-543-2978
11	Ret. PETER, ROBERT	1335 LIBERTY STREET	BRAINTREE, MA	02178	8/27/76	781-840-1575
12	BIL PERAZZO, MARIO	31 WASHINGTON STREET	SHERBORN, MA	01770	2/22/77	508-653-6006
13	PROV. SULLIVAN, THOMAS	145 HILL HOUSE DRIVE	PLYMOUTH, MA	02360	10/24/77	508-824-3584
14	BIL FAIRHEAD, RAYMOND	1 FIDELITY DR	EASTON, MA	02334	1/9/78	508-230-2436
15	BIL KELLY, WILLIAM	1008 FORD STREET	BROCKTON, MA	02301	3/27/78	508-384-4081
16	PROV. MONAHAN, ROBERT	4 KATIE LANE	HANSON, MA	02341	1/14/78	781-426-2751
17	BIL PETER, ROBERT	633 FORD STREET	HANOVER, MA	02339	4/23/78	781-871-0748
18	BIL PETER, GARY	51 ROSARIO STREET	NEW BEDFORD, MA	02160	8/3/81	781-337-6278
19	BIL PETER, BRIAN	17 KINGS AVE	SALMON, MA	02355	5/17/83	603-890-8103
20	PROV. DAMIANO, JOHN	52 BIRDY DRIVE	BRIDGEWATER, MA	02333	7/20/83	508-378-3792
21	PROV. GUY, NORMAN	281 CENTRAL STREET	BRIDGEWATER, MA	02333	5/14/84	508-378-0498
22	PROV. HANCOCK, PHILIP	108 MAPLE STREET	MALDEN, MA	02148	9/24/84	508-339-5134
23	BIL HOFFMAN, ROBERT	1060 MILLBURN STREET	BROCKTON, MA	02301	8/16/85	508-388-6883
24	Ret. GULLONE, DENNIS	210 STAFF ROAD	PLYMOUTH, MA	02360	4/6/73	508-808-6964
25	Ret. HOFFMAN, RONALD	137 COMMONWEALTH	PLYMOUTH, MA	02360	4/20/82	508-808-6964
26	PROV. FRANK, GEORGE	124 FLAGG STREET	BRIDGEWATER, MA	02334	10/25/82	508-697-9620
27	PROV. BRUSH, DEAN	101 SOUTH BURNING ST	LAKEVILLE, MA	02345	3/8/84	818-948-0336
28	BIL FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
29	PROV. FRANK, EDWARD	165 WASHINGTON STREET	PLYMOUTH, MA	02360	3/25/85	508-808-6964
30	PROV. McGRATH, HAROLD	103 MAIN STREET	WALPOLE, MA	02081	8/26/85	508-668-0244
31	BIL FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
32	BIL FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
33	BIL FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
34	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
35	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
36	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
37	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
38	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
39	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
40	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
41	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
42	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
43	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
44	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
45	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
46	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
47	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
48	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
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50	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
51	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
52	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
53	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
54	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
55	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
56	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
57	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
58	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
59	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324
60	PROV. FORD, KEVIN	16 OAKVIEW ROAD	WATERTOWN, MA	02472	11/15/84	617-926-5324

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15.	BIL RAILHEAD RAYMOND	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	10/2/77	508-224-5884
16.	BIL KELLEY WILLIAM	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	10/2/77	508-224-5884
17.	PROV MONTAGNA JUBERT	4 KATY LANE	PLYMOUTH, MA	02341	11/1/78	781-826-2751
18.	BIL PETER J. HARMON	633 RIVER STREET	PLYMOUTH, MA	01960	1/23/79	781-871-7648
19.	BIL FICKERING GARY	51 ROSALIND STREET	PLYMOUTH, MA	02108	8/3/81	701-337-6278
20.	PROV THIBERT EDWARD	17 MARSH AVE	PLYMOUTH, MA	01960	5/1/83	617-880-8184
21.	PROV DAMIANO JOHN	22 BIRCH DRIVE	PLYMOUTH, MA	02343	7/20/83	508-378-3792
22.	PROV DWYAN J. HARMON	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/84	508-378-0468
23.	PROV CARDOZA JOHN	808 MAPLE STREET	PLYMOUTH, MA	02048	9/24/84	508-339-5134
24.	BIL BOUFFAUX ROBERT	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
25.	RET COUL DENNIS	1130 STATE ROAD	PLYMOUTH, MA	02360	4/6/73	508-888-6964
26.	RET RUGER RONALD	437 COMMONWEALTH RD	PLYMOUTH, MA	01978	5/20/87	508-888-0174
27.	PROV FRANKY GEORGE	321 LAGRI STREET	PLYMOUTH, MA	02324	10/25/82	508-697-9620
28.	PROV GILHOUSE ROBERT	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	4/10/84	508-378-0468
29.	BIL POWER KEVIN	16 CARVER ROAD	PLYMOUTH, MA	02472	11/15/84	617-926-3324
30.	PROV PRINCELY EDWARD	180 WASHINGTON STREET	PLYMOUTH, MA	01960	5/23/85	508-888-0475
31.	PROV MCGRAH CAROL	115 MAIN STREET	PLYMOUTH, MA	02081	8/26/85	508-668-0244
32.	PROV HANCOCK J. HILL	28 RIVER STREET	PLYMOUTH, MA	02341	9/3/87	508-378-0468
33.	BIL HOLDEN JOSEPH	139 CHURCH STREET	PLYMOUTH, MA	02090	5/8/89	781-329-3541
34.	PROV HOWE THOMAS	127 EVERETT STREET	PLYMOUTH, MA	01978	5/15/89	508-378-0468
35.	PROV HOWE STEPHEN	51 BRADFORD STREET	PLYMOUTH, MA	02072	5/2/90	781-341-0229
36.	PROV HENRY STEPHEN	467 FORD STREET	PLYMOUTH, MA	01960	7/1/91	781-341-0147
37.	PROV SULLIVAN COLIN	4 HADLEY ROAD	PLYMOUTH, MA	02766	12/9/91	508-285-4018
38.	PROV MACDONALD JEFFERY	1 FENNEL PATH	PLYMOUTH, MA	01960	12/9/91	508-378-0468
39.	BIL HUBBERT MILTON	4 FIRST STREET	PLYMOUTH, MA	02048	12/9/91	508-339-8445
40.	PROV ORLANDO WILLIAM	43 BRADFORD STREET	PLYMOUTH, MA	01960	8/1/93	781-341-0147
41.	PROV FORTES MARK	735 WASHINGTON STREET	PLYMOUTH, MA	02081	9/3/93	508-888-0475
42.	PROV MONTAGNA JUBERT	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
43.	PROV FRIEL ADRIAN	5 FALL LANE	PLYMOUTH, MA	02021	9/9/93	781-341-0147
44.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
45.	PROV FORTES MARK	735 WASHINGTON STREET	PLYMOUTH, MA	02081	9/3/93	508-888-0475
46.	PROV MONTAGNA JUBERT	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
47.	PROV STEPHEN JOHN	29 JESSIE AVE	PLYMOUTH, MA	02703	5/1/93	508-761-6979
48.	PROV HANCOCK J. HILL	28 RIVER STREET	PLYMOUTH, MA	02341	9/3/87	508-378-0468
49.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
50.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
51.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
52.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
53.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
54.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
55.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
56.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
57.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
58.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
59.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
60.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
61.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
62.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
63.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
64.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
65.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
66.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
67.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
68.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
69.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
70.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
71.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
72.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
73.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
74.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468
75.	PROV LEBLANC JAMES	1000 RAILHEAD STREET	PLYMOUTH, MA	01960	5/1/85	508-378-0468

*BIL CRAIG Goulet 978-5625880

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Volume I
Pages 1 to 62
Exhibits 1 to 5

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

- - - - -X
:
CRAIG GOULET, :
Plaintiff, :
:
vs. : Civil Action
:
NEW PENN MOTOR EXPRESS, INC.; : No. 04-12577 JLT
:
and TEAMSTERS LOCAL 25, :
INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, :
Defendants. :
:
- - - - -X

DEPOSITION OF TEAMSTERS LOCAL 25,
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, THROUGH ITS
DESIGNEES JANET McLAUGHLIN and MARK HARRINGTON,
witnesses called on behalf of the Plaintiff, taken
pursuant to Rule 30(b)(6) of the Federal Rules of
Civil Procedure, before Ken A. DiFraia, Registered
Professional Reporter and Notary Public in and for
the Commonwealth of Massachusetts, at the Offices of
Scott A. Lathrop & Associates, 122 Old Ayer Road,
Groton, Massachusetts, on Tuesday, November 15,
2005, commencing at 10:35 a.m.

PRESENT:
Scott A. Lathrop & Associates
(by Scott A. Lathrop, Esq.)
122 Old Ayer Road, Groton, MA 01450,
for the Plaintiff.
Frantz Ward LLP
(by Carl H. Gluek, Esq.)
2500 Key Center, 127 Public Square,
Cleveland, OH 44114-1230, for the Defendant
New Penn Motor Express, Inc.

00002

PRESENT: (Continued)
Dwyer, Duddy and Facklam, P.C.
(by Kathleen A. Pennini, Esq.)
Two Center Plaza, Suite 430,
Boston, MA 02108-1804, for the Defendant
Teamsters Local 25, International
Brotherhood of Teamsters.
ALSO PRESENT: Craig Goulet
* * * * *

00003

I N D E X				
WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
JANET McLAUGHLIN				
BY MR. LATHROP	6		42	
BY MS. PENNINI		40		
MARK HARRINGTON				
BY MR. LATHROP	47			

* * * *

E X H I B I T S

McLAUGHLIN		
NO.	DESCRIPTION	PAGE
1	Amended notice of taking deposition	5
2	Canton seniority list	7
3	Group of documents, including Dracut seniority list	17
4	Seniority list form	32

HARRINGTON		
NO.	DESCRIPTION	PAGE
5	Dracut seniority list	48

* * * *

00004

1 P R O C E E D I N G S
2 MR. LATHROP: Let's do stipulations, and
3 then I just want to talk on the record with
4 Ms. Pennini about procedure.
5 What stipulations would you like?
6 MS. PENNINI: Objections, except as to
7 form, reserved until trial.
8 MR. LATHROP: Also reserve motions to
9 strike?
10 MS. PENNINI: Also reserve motions to
11 strike.
12 MR. LATHROP: What about reading and
13 signing?
14 MS. PENNINI: 45 days, or else they're
15 deemed waived if they are not signed by the
16 deponent.
17 MR. LATHROP: Well, it different people.
18 MS. PENNINI: Right. This is on behalf of
19 the Local.
20 MR. LATHROP: As the first exhibits, can I
21 put in front of you this document, which is the
22 amended notice of taking deposition, without
23 attachments, and can we stipulate that the
24 deposition that we are now taking is pursuant to

00005

1 this notice of taking deposition?

2 I admit the documents are not attached to
3 the exhibit, but this is the notice that brought us
4 here today for this deposition.

5 MS. PENNINI: Well, this in addition to I
6 would say the order from Judge Tauro on November 1st
7 where he granted that you would be allowed to take
8 the Rule 30(b)(6) deposition, which part of the
9 reason this was not done on October 28th as well as
10 the fact that, one, the parties wouldn't have able
11 to attend on the date of October 28th; two, the
12 defendant --

13 MR. LATHROP: I have no problem with the
14 date, but in terms of this is the notice that ended
15 up resulting in the deposition, can you stipulate to
16 that so we can mark it as Exhibit 1?

17 MS. PENNINI: Right, with the comments I
18 made, yes.

19 MR. LATHROP: I have no problem with the
20 comments.

21 (Document premarked as McLaughlin
22 Exhibit 1 for identification)
23
24

00006

1 JANET McLAUGHLIN
2 a witness called for examination by counsel for the
3 Plaintiff, having been satisfactorily identified by
4 the production of her driver's license and being
5 first duly sworn by the Notary Public, was examined
6 and testified as follows:
7 DIRECT EXAMINATION
8 BY MR. LATHROP:
9 Q. I apologize, I didn't catch your name.
10 A. Janet McLaughlin.
11 Q. Could you please provide your address for
12 the record.
13 A. 9 Emerson Road, Plymouth.
14 Q. Massachusetts?
15 A. Uh-huh.
16 Q. That's a yes?
17 A. Yes.
18 Q. By whom are you employed?
19 A. Teamsters Local 25.
20 Q. How long have you been employed by
21 Teamsters Local 25?
22 A. 34 years.
23 Q. I take it you were on employee of Teamsters
24 Local 25 in the years 2001, 2002 and 2003?

00007

1 A. Yes.

2 Q. Focusing on those years, 2001 through 2003,
3 what capacity were you employed in at that time?

4 A. Executive assistant to the president.

5 Q. Where were you based when you were
6 executive assistant to the president?

7 A. 544 Main Street, executive offices in
8 Boston, Mass.

9 Q. To whom did you serve as executive
10 assistant to the president from the years 2001
11 through 2003?

12 A. George Cashman.

13 Q. Was 545 Main Street, Boston the
14 headquarters for Local 25 for that period of time?

15 A. It's 544 Main Street.

16 Q. Sorry, I put it down incorrectly. 544 Main
17 Street?

18 A. Yes.

19 (Document marked as McLaughlin
20 Exhibit 2 for identification)

21 Q. Ms. McLaughlin, I'm showing you what was
22 marked as Exhibit 2 in this deposition. This was,
23 in fact, marked as Exhibit 2 to the amended notice
24 of taking of deposition.

00008

1 Are you familiar with this document?

2 A. I saw it yesterday and last Thursday.

3 Q. Do you have any personal knowledge as to
4 when it was prepared?

5 A. No.

6 MR. LATHROP: Ms. Pennini, am I in error,
7 but this was a 30(b)(6) on the examination of the
8 preparation of Exhibit 2, the Canton list?

9 MS. PENNINI: Yes. I can ask her further
10 questions. Local 25 contends that they did not
11 prepare this list. This witness can tell you more
12 about Exhibit 3 as to what she has seen and done
13 regarding Exhibit 3, but Local 25 is not the party
14 that actually prepared this document.

15 MR. LATHROP: Have you produced somebody
16 who has personal knowledge as to who did prepare it
17 then?

18 MS. PENNINI: Ms. McLaughlin can give you
19 some background. We have done some research, and we
20 can't determine who exactly did this, but we can
21 tell -- what Ms. McLaughlin is here to say is that
22 we have gone through everyone at Local 25 that would
23 have knowledge as to who prepared this, and this was
24 not prepared by anyone at Local 25.

00009

1 Ms. McLaughlin was a party who asked
2 everyone in particular who would have done this as
3 to how it was prepared. The additional party, or
4 Mr. Cashman, may have additional information, but
5 unfortunately Mr. Cashman is not available for a
6 Rule 30(b)(6) deposition and cannot be made
7 available for a Rule 30(b)(6) deposition.

8 MR. LATHROP: Is there some particular
9 reason why you did not inform me in advance of this
10 time that you don't have someone that has personal
11 knowledge about the preparation of Exhibit 2?

12 MS. PENNINI: What I'm saying is the only
13 one with any knowledge whatsoever regarding this
14 document is -- Ms. McLaughlin has personal knowledge
15 of who did not prepare it. We have checked through
16 Local 25 to see whether or not it was prepared by
17 the Local.

18 MR. LATHROP: Let me explore that further
19 with Ms. McLaughlin.

20 Q. Ms. McLaughlin, you said you first saw this
21 document maybe Thursday?

22 A. Uh-huh.

23 Q. Is that yes?

24 A. Yes.

00010

1 Q. You have to say yes or no, please.
2 A. Yes. I'm sorry.
3 Q. Today's November 15, so approximately
4 November 10th was the first time that you saw
5 Exhibit 2?
6 A. Yes.
7 Q. I take it from the comments by
8 Attorney Pennini, that you or someone else on behalf
9 of Local 25 made an attempt to find out who did
10 prepare Exhibit 2, correct?
11 A. Correct.
12 Q. What efforts did you make to determine who
13 did prepare Exhibit 2?
14 A. I asked every staff person who would have
15 had anything to do with compiling a list like this
16 in 2002, whether or not they recognized it as
17 something that they prepared, and none of the office
18 staff prepared this list.
19 Q. Let me ask the question differently. I'm
20 trying to understand the nature of your inquiry into
21 the office staff.
22 A. Yes.
23 Q. The office persons that you made inquiry
24 of, did any of them say definitively, "I did not

00011

1 prepare it"?
2 A. Yes.
3 Q. Did any of them say, "I'm not certain
4 whether I prepared it or not"?
5 A. No.
6 Q. Were there any other forms of responses
7 that you received when you inquired of the office
8 staff?
9 A. No.
10 Q. How many people did you make inquiry of?
11 A. Six.
12 Q. Can you name them.
13 A. Sheila McLaughlin.
14 Q. Is Ms. McLaughlin related to you?
15 A. Not really.
16 Q. Who else?
17 A. Fran Carrier, Kathy Pestana, Maureen Henry,
18 Patricia Disilva, and Eileen Hanlon.
19 Q. What are these people's job titles, or
20 title?
21 A. Sheila McLaughlin is I think office
22 manager, yes, office manager. Fran Carrier is
23 office manager of dues room. The rest are just
24 secretaries, no specific titles.

00012

1 Q. At least as of November 10th, were there
2 any office employees on Local 25's payroll other
3 than these six persons and yourself?

4 A. Yes.

5 Q. So there were some persons on the office
6 payroll who you did not make this inquiry of?

7 A. Yes.

8 Q. Can you identify those persons by name and
9 title.

10 A. Kathleen Ferri.

11 Q. Her title?

12 A. Secretary.

13 Q. And?

14 A. Maureen Lydon.

15 Q. What is her title?

16 A. Switchboard operator.

17 Q. Why did you not make inquiry of them?

18 A. They would not have done anything in 2002
19 on any of these lists.

20 Q. The reason for that is?

21 A. Maureen Lydon, she was in the dues room, so
22 she would not have handled anything like that, and
23 Katy Ferri didn't handle anything like this at the
24 time.

00013

1 Q. Directing your attention to the time frame
2 in the year 2002, were there any staff employees
3 then employed by Local 25 that you did not now list?

4 A. I don't know. There may have been some
5 people that retired, so I don't know.

6 Q. Among the universe of people that could
7 have potentially prepared or worked with Exhibit 2
8 in the year 2002, there potentially are people who
9 were then employed by Local 25 who are not now
10 employed by Local 25 of whom you did not make such
11 an inquiry?

12 MR. GLUEK: Objection.

13 A. (No response)

14 Q. Do you understand the question?

15 A. If there was somebody that retired or left,
16 I did not question them, no.

17 Q. You questioned current employees only,
18 correct?

19 A. Yes.

20 Q. Just to be clear, do you know one way or
21 another whether or not there were office personnel
22 in the year 2002 who potentially could have handled
23 this document who no longer are employed by
24 Local 25?

00014

1 A. I don't know whether or not those people
2 that might have left would have been able to prepare
3 a list like this.

4 Q. Do you recall the names of any people,
5 office people, who have left since the year 2002?

6 A. I'm not sure of the years they may have
7 left. I know we have had two -- well, there's one
8 person that I can remember that may have been
9 between the year 2002 and now.

10 Q. You are doing this by memory?

11 A. Yes.

12 Q. You have not since last Thursday, or
13 thereabouts, and today gone through any payroll
14 records to check out which office persons have left
15 since 2002, for example?

16 A. That's correct, I have not.

17 Q. Based upon memory, you can recall at least
18 one person as we sit here today who was an office
19 person who left since 2002?

20 MR. GLUEK: Objection.

21 A. I don't know the date which they may have
22 left.

23 Q. But they may have left in that time frame?

24 A. Yes, and I can only think of one person

00015

1 that may have.
2 Q. What is the name of that person?
3 A. Jane Hagen.
4 Q. What was her last title?
5 A. Switchboard operator.
6 Q. When you made inquiry of your current
7 staff, if I can call it that -- and if I incorrectly
8 describe your activities, please correct me -- did
9 you ask them about the preparation of the physical
10 document?
11 A. Yes.
12 Q. I take it it's your understanding of the
13 responses you got that everyone denied being
14 involved with the physical preparation of Exhibit 2,
15 correct?
16 A. Yes.
17 Q. Did you ask any of the current employees
18 concerning whether or not they had seen this
19 document in approximately 2002, or thereabouts?
20 A. Yes.
21 Q. What was the response or the responses that
22 you received?
23 A. That they had not.
24 Q. They denied seeing it or did not have a

00016

1 recollection of seeing it, or both?
2 A. Both.
3 Q. Were there any persons among the current
4 office staff who said, "I don't recall seeing it" as
5 opposed to saying, "I never saw that document"?
6 A. No.
7 Q. So all of them that you made inquiry of
8 discretely denied having ever seen this document
9 before, correct?
10 A. Yes.
11 Q. Other than what you have already told us
12 based upon your either personal knowledge or the
13 knowledge that you gathered through speaking to
14 staff persons, do you have any other information or
15 understanding pertaining to Exhibit 2?
16 A. No.
17 Q. Is it fair to say that based upon your
18 personal knowledge and the knowledge you gained in
19 preparation for this deposition, if you will, you
20 have no understanding as to who prepared Exhibit 2?
21 A. Right, no understanding.
22 Q. And you have no understanding as to why
23 Exhibit 2 was prepared?
24 A. Correct.

00017

1 Q. I know it's largely a typed document, but
2 there is some handwriting on the first page. Is
3 that also true, that you have no understanding
4 concerning the handwritten portions of Exhibit 2?

5 A. Correct.

6 (Document marked as McLaughlin

7 Exhibit 3 for identification)

8 Q. Ms. McLaughlin, I'm now handing you what
9 was marked as Exhibit 3 for this Rule 30(b)(6)
10 deposition. After you have had the chance to review
11 it, I'm going to ask you whether or not you have any
12 understanding as to the preparation of this document
13 or portions thereof?

14 A. (Examines document) Yes.

15 Q. What portions of Exhibit 3, if not the
16 entirety, do you have an understanding concerning
17 the creation or preparation of it?

18 A. Page 1, the fax cover sheet; Pages 3, 4, 5
19 and 6.

20 Q. So everything but Page 2?

21 A. Correct.

22 Q. Page 2 being the one that has the heading
23 "Dracut Seniority List" on it?

24 A. Yes.

00018

1 Q. Bear with me, but in light of your answer,
2 I will probably go through this page by page.

3 Looking at Page 1, which is the fax cover
4 sheet, what is the basis for having any
5 understanding with regard to the preparation of that
6 page?

7 A. I prepared it.

8 Q. Describe to me the circumstances under
9 which you prepared the first page of Exhibit 3.

10 A. Mr. Cashman brought it out to me and told
11 me it needed to be faxed to Irene at the
12 International Office in Washington and told me to
13 write "Per request of the Eastern Region Freight
14 Department, attached please find seniority list
15 (preference list) with the most up-to-date
16 information that we have at the present time. Any
17 questions please call."

18 Q. I take it that was on February 22nd in the
19 year 2002?

20 A. Correct.

21 Q. Could you identify by name and title who
22 Irene is, or was at least as of February 2002.

23 A. Irene was the secretary for the freight
24 division at the International offices in Washington.

00019

1 Q. The International --
2 A. Brotherhood of Teamsters.
3 Q. Do you recall Irene's last name?
4 A. No, I don't.
5 Q. Did you know it at the time?
6 A. No.
7 Q. Had you had communications with Irene prior
8 to Mr. Cashman asking you to send a fax to her?
9 A. Not on that day.
10 Q. At any time prior to that, had you had
11 communications with Irene?
12 A. Within the last 34 years, yes.
13 Q. Do you have any understanding as to whether
14 or not Irene still is employed by the International
15 Office?
16 A. No. She's retired.
17 Q. Do you have any understanding as to whether
18 she retired, I take it, subsequent to February 22,
19 2002?
20 A. No.
21 Q. Did you have any conversations or
22 communications with Irene with regard to your fax
23 other than the fax itself?
24 A. No. She did not call for any assistance.

00020

1 Q. No one from the International I take it
2 called you back?

3 A. Correct.

4 Q. That is, with regard to this fax?

5 A. Correct.

6 Q. Other than directing you to send this fax
7 and to leave the message as you wrote it on the
8 cover sheet, did you have any other communications
9 with Mr. Cashman with regard to the fax or the
10 documents you were faxing to the International
11 Office?

12 A. Yes, on Pages 3 through 6.

13 Q. Let's back up. I take it you had no
14 communications with Mr. Cashman with regard to
15 Page No. 2, the Dracut seniority list?

16 A. No, just other than it was to go with this
17 fax.

18 Q. Other than faxing the Dracut seniority list
19 to Irene on February 22, 2002, did you have any
20 other dealings with the Dracut seniority list?

21 A. No.

22 Q. Had you seen it before?

23 A. No.

24 Q. I'm sorry, I may have already, in essence,

00021

1 asked this, but after sending the Dracut seniority
2 list to Irene, among other things, you had no
3 conversations with anyone concerning the Dracut
4 seniority list?

5 A. Correct.

6 Q. I would now like to direct your attention
7 to Pages 3 and 4 of this document, which appear to
8 have the heading, at least on Page 3, "APA Dracut
9 Massachusetts." Do you see those pages?

10 A. (Examines document) Yes.

11 Q. Prior to sending this fax, had you seen
12 this document or any versions of it?

13 A. No.

14 Q. Prior to sending this document by fax, had
15 you had any communications with regard to this
16 document or any prior versions?

17 A. No.

18 Q. Subsequent to your sending this part of the
19 fax to Irene, did you have any communications with
20 anyone concerning this part of the document?

21 A. No.

22 Q. Subsequent to sending this fax to Irene on
23 February 22, 2002, did you have any further dealings
24 with this part of the document?

00022

1 A. No.
2 Q. Do you have any understanding as to whose
3 handwriting appears where it says, "APA Dracut,
4 Massachusetts"?
5 A. That's mine.
6 Q. How did that handwriting come to be added?
7 A. George told me to make it clear that this
8 was APA Dracut and the next page was APA Dracut and
9 the next page was APA Canton and the last page was
10 APA Canton, because there was no, as the first page
11 says, New Penn seniority list, Dracut seniority list
12 New Penn. These did not have any APA New Penn
13 anything on them.
14 Q. When did Mr. Cashman tell you to so
15 denominate these documents?
16 A. It was when he handed me the documents to
17 fax.
18 Q. As you sit here today, do you have any
19 understanding with regard to the preparation of
20 Pages 3 and 4, the APA Dracut Massachusetts list?
21 A. No.
22 Q. Did you attempt in preparation for this
23 30(b)(6) deposition to make an inquiry concerning
24 the preparation of this document?

00023

1 A. With all of the office staff, I did ask
2 them after that.
3 Q. You testified earlier about your inquiries
4 of the office staff vis-a-vis Exhibit 2.
5 A. Correct.
6 Q. Am I to understand that -- and at least for
7 the time being, we're talking about Pages 3 and 4 of
8 Exhibit 3 -- you did make similar inquiry of the
9 current office staff?
10 A. Yes.
11 Q. Tell us what you learned after you made
12 inquiry of the same current office staff about
13 Pages 3 and 4.
14 A. They answered the same way they did with
15 Exhibit 2, that they had not seen it and they did
16 not prepare it.
17 Q. I take it you did not prepare it?
18 A. No. I only labeled them or put a title on
19 the APA Canton and APA Dracut lists, what I was told
20 to put on, the APA Dracut and Canton lists.
21 Q. Do you have any understanding as to whether
22 or not Mr. Cashman prepared this document?
23 A. No.
24 MR. GLUEK: Sorry, no, you didn't?

00024

1 THE WITNESS: I don't have any knowledge.

2 Q. Let me ask you this. As the executive
3 assistant to the president, do you have any
4 understanding as to whether or not Local 25 had a
5 computerized spreadsheet program that could produce
6 a document like this?

7 A. In 2002, I'm not sure.

8 Q. Do you know whether or not Mr. Cashman had
9 access to a spreadsheet program in 2002 that would
10 have allowed him to prepare this document?

11 A. I would say he did not.

12 Q. So it's your understanding -- and correct
13 me if I'm wrong -- as we sit here today, it is
14 unlikely that Mr. Cashman prepared this document?

15 A. Correct.

16 MR. LATHROP: Ms. Pennini, I'm going to ask
17 you a question. You stated earlier Mr. Cashman was
18 not subject to a 30(b)(6) deposition.

19 MS. PENNINI: I said that he's unavailable.

20 MR. LATHROP: Would you state for the
21 record, because I don't know where this is going to
22 go, as to the reasons why he's not available for
23 deposition.

24 MS. PENNINI: Actually, Ms. McLaughlin

00025

1 might have a little more of the background than I
2 would, but Mr. Cashman is currently incarcerated.
3 He cannot be contacted by the Local as part of -- he
4 has a no contact -- I don't know exactly what
5 stipulation it is as part of his plea bargain I
6 believe where he's not supposed to have any contact
7 with the Local or the Local with Mr. Cashman.

8 MR. LATHROP: Do you know if that also
9 applies to you as a representative of Local 25?

10 MS. PENNINI: I believe it does.

11 MR. GLUEK: He's not even employed by the
12 union anymore.

13 MS. PENNINI: No.

14 MR. GLUEK: So to the extent it's a
15 30(b)(6), I don't see --

16 MR. LATHROP: We can argue this, but
17 certain representations were made he's not available
18 to be subpoenaed.

19 MS. PENNINI: From what I understand, he's
20 not allowed to have any contact not only with the
21 union, but with counsel for the union as well.

22 And we did not represent him for the
23 purposes of that plea bargain, so I don't feel
24 comfortable giving any more information about that.

00026

1 MR. LATHROP: I was just, quite frankly,
2 seeking an expansion upon what you earlier put into
3 the record. I understand your caveat, and I
4 understand Mr. Gluek's caveat, also.

5 Q. After you faxed Exhibit 3 to Irene, what
6 did you do, if anything, with the fax?

7 A. Take it back to Mr. Cashman.

8 Q. Did you ever see the fax again until
9 Thursday?

10 A. No.

11 Q. I'm now going to ask you to look at the
12 last two pages of Exhibit 3. Do I understand that
13 to the extent it shows up, that that's supposed to
14 be handwriting on the side of "APA Canton,
15 Massachusetts"?

16 A. Correct.

17 Q. And that if we saw the full thing, we would
18 recognize it as your handwriting?

19 A. Correct.

20 Q. Do I understand it correctly that you added
21 this at the same time that you added the APA Dracut,
22 Massachusetts?

23 A. Correct.

24 Q. And that you added that at Mr. Cashman's

00027

1 directive?
2 A. Correct.
3 Q. You did that on or about February 22, 2002?
4 A. Correct.
5 Q. Let's talk about this specific document
6 then. Had you seen this document or any prior
7 versions of this document prior to February 22,
8 2002?
9 A. No.
10 Q. Did you have any communications with anyone
11 at Local 25 with regard to this document or the
12 substance of the document prior to you faxing it to
13 Irene?
14 A. No.
15 Q. Subsequent to faxing it to Irene, did you
16 have any communications with anyone concerning the
17 document or the substance within the document?
18 A. No.
19 Q. What did you do with the document after you
20 faxed it to Irene?
21 A. Gave it back to Mr. Cashman.
22 Q. You gave the entire fax back to
23 Mr. Cashman?
24 A. Yes.

00028

1 Q. Did you also make inquiry of the current
2 office staff with regard to the APA Canton,
3 Massachusetts list?

4 A. Yes.

5 Q. What information was provided to you by the
6 current office staff with regard to the Canton,
7 Massachusetts APA document?

8 A. That they did not prepare it.

9 Q. Did any of them recognize it?

10 A. No.

11 Q. Correct me if I'm wrong, but is it your
12 understanding from the responses you got, that all
13 of them denied ever seeing this before?

14 A. Correct.

15 Q. Again, your inquiries were limited to
16 current office staff?

17 A. Correct.

18 Q. I'm placing in front of you Exhibit 1,
19 which is the amended notice of taking deposition and
20 which has resulted, at least in part, in the
21 deposition that we're here for today.

22 Do you have any other information or
23 understanding pertaining to the topics listed in
24 Items 1, 2 and 3 regarding this notice of deposition

00029

1 that you have not already provided to us?
2 A. No.
3 Q. If I may, let me ask you this. Looking at
4 Exhibits 2 and 3 -- well, do you have Exhibits 2 and
5 3 in front of you?
6 A. Yes.
7 Q. In the time frame of early 2002, did it
8 fall within your job duties to prepare documents
9 similar to Exhibit 2?
10 A. No.
11 Q. Do you have any recollection in early 2002
12 of preparing documents similar to Exhibit 2?
13 A. No.
14 Q. I'm going to ask you similar questions with
15 regard to APA Dracut, Massachusetts that's within
16 Exhibit 3. Focusing on early 2002, did it fall
17 within your job description to prepare a document
18 similar in form to that which is --
19 A. No.
20 Q. Do you recall, nonetheless, in early 2002
21 preparing a document similar to this APA Dracut
22 list?
23 A. No.
24 Q. I'm also going to ask you about the APA

00030

1 Canton list. In early 2002, did it fall within your
2 job description to prepare documents similar in
3 nature to that document?

4 A. No.

5 Q. Do you have any recollection, nonetheless,
6 of preparing documents similar to the Canton APA
7 list?

8 A. No.

9 Q. Focusing on that time frame, February 2002
10 or thereabouts, give or take a month, early 2002,
11 did it fall within the job descriptions of anyone
12 within Local 25 to prepare documents similar in
13 format to either Exhibit 2 or the enclosures, if you
14 will, to Exhibit 3?

15 A. Not to my knowledge.

16 Q. So it's your understanding that, for
17 example, the secretaries at Local 25 in early 2002,
18 it was not within their job description to prepare
19 documents similar to at least starting with Exhibit
20 No. 2?

21 A. No.

22 Q. Or the APA Dracut, Massachusetts list
23 that's attached to Exhibit 3?

24 A. No, they would not.

00031

1 Q. Or the Canton, Massachusetts APA list
2 attached to Exhibit 3?
3 A. No, they would not.
4 Q. Do you have any understanding based upon
5 your years of experience at Local 25 as to whether
6 or not anyone employed by Local 25 prepared
7 documents similar in nature to Exhibit 2 or the
8 enclosures to Exhibit 3?
9 A. No.
10 Q. Prior to February 22, 2002, had you ever
11 seen documents similar to the attachments to Exhibit
12 No. 3?
13 A. Yes.
14 Q. In what context had you seen such
15 documents?
16 A. It looks like a seniority list.
17 Q. So you had seen in the office of Local 25
18 seniority lists before?
19 A. Yes.
20 Q. And it was your understanding that these
21 seniority lists were prepared by someone other than
22 Local 25 persons?
23 A. Correct.
24 Q. Was it your understanding -- and correct me

00032

1 if I'm wrong -- that these were documents prepared
2 by the employer typically?
3 A. Yes.
4 Q. Regarding the format, the seniority lists
5 which you had seen which you understood were
6 prepared by employers, were they similar in format
7 to the Canton, Massachusetts list that's attached to
8 Exhibit 3?
9 A. Yes.
10 Q. Were they similar in format to Exhibit 2?
11 A. Yes.
12 (Document marked as McLaughlin
13 Exhibit 4 for identification)
14 Q. Ms. McLaughlin, I'm showing you a document
15 that's now been marked as Exhibit 4 for this
16 deposition.
17 MR. GLUEK: Objection. This is supposed to
18 be a 30(b)(6). I don't think this is one of the
19 items covered in your notice.
20 MR. LATHROP: It's not.
21 MR. GLUEK: And I object.
22 MR. LATHROP: Your objection is duly noted
23 on the record.
24 MR. GLUEK: If I were her counsel, I would

00033

1 tell her not to answer.
2 MR. LATHROP: That will just be in front of
3 Judge Tauro.
4 Q. Looking at this form, not the document, as
5 you have testified you had seen seniority lists in
6 the Local 25 office, correct?
7 A. Correct.
8 Q. I'm not asking you even about this
9 particular document, but have you seen seniority
10 lists in this format in the Local 25 office?
11 A. Yes.
12 Q. Have you seen this document before,
13 Exhibit 6?
14 MS. PENNINI: Objection.
15 THE WITNESS: Am I supposed to answer the
16 question?
17 MS. PENNINI: You can still answer.
18 A. I may have yesterday.
19 Q. But prior to yesterday, you don't recall
20 seeing this in Local 25's office?
21 A. No.
22 Q. In February 2002, whom did Mr. Cashman use,
23 if anyone, for secretarial services?
24 MS. PENNINI: Objection. You can answer.

00034

1 You can still answer.
2 A. I'm his secretary. What do you mean?
3 Q. I understood you to be the executive
4 assistant to the president.
5 A. Define "secretarial."
6 Q. If Mr. Cashman wanted to have
7 correspondence prepared for his signature in
8 February of 2002, was it within your job
9 responsibility to do it?
10 A. Some, yes.
11 Q. When you say "some," you mean some was not?
12 A. Correct.
13 Q. Some would go to other persons within the
14 office?
15 A. Correct.
16 Q. What other persons within the office would
17 it go to?
18 A. The office manager.
19 Q. Who was the office manager as of February
20 2002?
21 A. Sheila McLaughlin.
22 Q. What kind of correspondence would you
23 prepare for Mr. Cashman?
24 MS. PENNINI: Objection.

00035

1 A. Letters. Most letters coming out of his
2 office came from me, but pertaining to companies or
3 arbitrations or cases, that wouldn't come out of my
4 office.

5 Q. What do you mean by that?

6 MS. PENNINI: Objection. I think you are
7 getting far beyond the Rule 30(b)(6) now with this
8 one, because it related to the seniority list, but
9 now I think you are asking Ms. McLaughlin in her
10 individual capacity what it is that she performed,
11 and it goes I think a little bit beyond what a
12 Rule 30(b)(6) deponent should be answering.

13 MR. LATHROP: Let me explain. You provided
14 someone that says they have no knowledge, and
15 therefore I need to explore exactly -- you know,
16 it's not as though you said, "Here's the person that
17 prepared it." You presented someone who is
18 testifying as to her, if you will, research into the
19 issue, and I am exploring the level of research, and
20 I'm going towards potentials of people within the
21 office who might have prepared certain kinds of
22 documents.

23 I wouldn't have had to have gone there had
24 you been able to bring a person that had personal

00036

1 knowledge about the preparation of the document. I
2 need to go there, and I'm going to go there.

3 MS. PENNINI: If I can say one thing.
4 Rule 30(b)(6) allows a Rule 30(b)(6) deponent to say
5 that they don't know as long as they have done
6 research in order to back it up. They can't say
7 they don't remember not having done further
8 research. Ms. McLaughlin has gone into the further
9 research.

10 If Local 25 as an organization doesn't know
11 who prepared it, they can't magically come up with
12 who prepared it if they were not the preparing
13 party.

14 MR. LATHROP: You can do whatever you wish.
15 I wish to explore it further because I don't have,
16 for example, Sheila McLaughlin in front of me, and I
17 don't have Fran Carrier in front of me, and I need
18 to know in one sense the thoroughness of which you
19 are presenting a 30(b)(6) person in terms of
20 inquiry.

21 MR. GLUEK: Asking this woman what types of
22 letters she types for Mr. Cashman does not get into
23 the level of inquiry she did yesterday or on the
24 10th.

00037

1 MR. LATHROP: I'm getting there.

2 MR. GLUEK: Well, let's move on.

3 MR. LATHROP: I would like to. I'm
4 responding to objections.

5 MR. GLUEK: Why don't you move on to
6 something that's relevant.

7 MR. LATHROP: I'm getting to things having
8 to do with the investigation.

9 Q. You have documents that you identified as
10 Exhibit 3 handed to you by Mr. Cashman. You
11 represented that you made inquiry of current office
12 people as to whether or not they have created this.

13 I, quite frankly, am trying to learn as to
14 whether or not there's other people within the
15 office who did clerical kinds of work for
16 Mr. Cashman that may be, quite frankly, inconsistent
17 with the responses you got on Thursday.

18 MR. LATHROP: Okay, are we happy?

19 Q. What persons within the office as of
20 February 2002 -- let's back up a bit. Including
21 yourself, what persons did clerical kinds of work
22 for Mr. Cashman?

23 A. The office staff.

24 Q. So anyone who was then on the office staff

00038

1 could have been asked in the normal course of his or
2 her duties to prepare documents for Mr. Cashman; is
3 that fair?

4 A. Correct.

5 Q. I understand that people have denied, for
6 example, the people you asked and listed denied
7 making the Canton, Massachusetts document?

8 A. Correct.

9 Q. But as of February 2002, if Mr. Cashman had
10 wanted such a document to be prepared, it's your
11 testimony that he had the authority to ask anyone on
12 the office staff to prepare such a document?

13 A. As?

14 Q. We are now talking about the APA Canton
15 list which was attached to Exhibit 3.

16 A. He could have asked any one of them to
17 prepare a document, but it would not have looked
18 like that.

19 Q. Why do you say that?

20 A. Because it looks like a seniority list.

21 Q. In terms of the procedure that was in place
22 in February 2002, if Mr. Cashman wanted such a
23 document to be prepared, he didn't have a normal
24 person who was designated as his secretary as to

00039

1 from whom he would uniquely look to provide
2 secretarial --
3 A. There was not just one, no.
4 Q. He could look to anyone on the office staff
5 as it existed on February 2002 to prepare such a
6 document if he wanted that document prepared?
7 A. He could have asked anyone.
8 Q. I'm just asking about the procedure. It's
9 within the normal procedure in the office that he
10 could have asked you to prepare such a document, and
11 it would have been consistent with past projects?
12 A. That's correct.
13 Q. He could have asked the office manager to
14 prepare a document?
15 A. That's normally who he would have asked,
16 was the manager.
17 Q. But it was also within past practice for
18 him to ask any of the secretarial persons to prepare
19 a document if he felt a document needed to be
20 prepared?
21 A. Mostly he would go to the office manager,
22 and if she wanted to, she could have had any of the
23 staff prepare that letter -- or document.
24 MR. LATHROP: Why don't we take five

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1 minutes so I can figure out where I'm at. We may be
2 done with this witness for this part of the
3 deposition.

4 (Recess)

5 MR. LATHROP: I have no further questions.

6 MS. PENNINI: I have a couple of questions.

7 CROSS EXAMINATION

8 BY MS. PENNINI:

9 Q. Ms. McLaughlin, if you could look at
10 Exhibits 2 and 3. I believe you said that any
11 documents that clerical staff of Local 25 would have
12 done would not have looked like this. Would the
13 office staff of Local 25 ever make any tables that
14 would contain unit members' names?

15 A. Yes.

16 Q. How would such tables look that would be
17 different than the tables that we previously
18 discussed?

19 A. More likely would be in alphabetical order
20 and probably would not have where on Exhibit 1 it
21 says, P-R-E.

22 Q. Sorry, do you mean Exhibit 2?

23 A. Yes, Exhibit 2, PRE on the top, unless we
24 were given that information. That's not something

00041

1 that looks familiar to me.
2 Q. How are these tables arranged that's
3 different than how you would ordinarily arrange such
4 tables of the union member names?
5 A. No. 1 looks like it's a seniority date. It
6 looks like this list may be in seniority order.
7 MR. LATHROP: Sorry, which exhibit number
8 are you looking at?
9 THE WITNESS: The new 2.
10 Q. If you could just look at Exhibit 3 in
11 general. Do you recall prior to the time you faxed
12 this exhibit to Irene whether this -- strike that.
13 Do you recall prior to faxing this exhibit
14 to Irene whether George Cashman or someone in the
15 Local had ever received a similar list like this?
16 A. Not in my capacity.
17 Q. Had you ever received or do you know
18 whether Mr. Cashman had ever received from either
19 the IBT or another Teamsters local a list similar to
20 the list you faxed to Irene on February 22nd?
21 A. I don't know.
22 MS. PENNINI: I have no further questions.
23 MR. GLUEK: No questions.
24

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1 REDIRECT EXAMINATION
2 BY MR. LATHROP:
3 Q. Let's look first at the last four pages of
4 Exhibit 3. I understand that it's your testimony
5 that prior to at least Thursday, November 10, you
6 had not seen any -- strike that.
7 Prior to you faxing this document on
8 February 22, 2002, you had not seen this document,
9 right?
10 A. Correct.
11 Q. The last two columns there, I take it you
12 have no personal knowledge as to what PREF.1 stands
13 for?
14 A. I can assume, because I wrote in
15 parenthesis on the front preference list, that PREF
16 might mean preference.
17 Q. So you have a column for Preference 1 and
18 Preference 2?
19 MR. GLUEK: Objection.
20 A. I have what?
21 Q. In the documents you faxed, the last four
22 pages of Exhibit 3, is that your understanding of
23 what those columns were for?
24 MS. PENNINI: Objection.

00043

1 A. Right now, yes.
2 Q. But Mr. Cashman had told you preference
3 list, to write that?
4 A. Correct.
5 Q. Do you know what a preference list was?
6 A. No.
7 Q. Had you ever seen a preference list before
8 February 22, 2002?
9 A. No.
10 Q. Did Mr. Cashman ever explain to you what a
11 preference list was?
12 A. No.
13 Q. Did you make any effort to determine at the
14 time what a preference list was?
15 A. No.
16 Q. I may have asked you this, and I'm sorry if
17 I did, but had you ever seen a preference list
18 before?
19 MR. GLUEK: Objection.
20 A. No.
21 Q. Could you read into the record the complete
22 message that you wrote on the cover page of Exhibit
23 No. 3.
24 A. Complete meaning date?

00044

1 Q. No, starting under "Message."

2 A. "Per request of Eastern Region Freight
3 Dept, attached please find seniority list
4 (preference list) with the most up-to-date
5 information we have at the present time. Any
6 question, please call."

7 MR. LATHROP: I have nothing further.

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1 C E R T I F I C A T E
2 I, JANET McLAUGHLIN, do hereby certify that I
3 have read the foregoing transcript of my testimony,
4 and further certify under the pains and penalties of
5 perjury that said transcript (with/without)
6 suggested corrections is a true and accurate record
7 of said testimony.
8 Dated at _____, this ____ day of _____,
9 2005.

10 _____
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1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)
3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 15th day of Nov.,
7 2005, at 10:35 a.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of her knowledge touching and
10 concerning the matters in controversy in this cause;
11 that she was thereupon examined upon her oath, and
12 her examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.
15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.
19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this ____ day of Nov.,
21 2005.

22 _____
23 Notary Public
24 My commission expires 4/3/09

00047

1 AFTERNOON SESSION (12:00 p.m.)
2 MARK HARRINGTON
3 a witness called for examination by counsel for the
4 Plaintiff, having been satisfactorily identified by
5 the production of his driver's license and being
6 first duly sworn by the Notary Public, was examined
7 and testified as follows:
8 DIRECT EXAMINATION
9 BY MR. LATHROP:
10 Q. Morning, Mr. Harrington.
11 A. Morning.
12 Q. You have testified earlier in a deposition
13 that I took of you personally, correct?
14 A. Correct.
15 Q. You are here today testifying at least in
16 response to a so-called Rule 30(b)(6) notice of
17 deposition on Teamsters Local 25, correct?
18 A. That's correct.
19 Q. Before I mark this, let me just make sure
20 of something. Is this the document concerning which
21 you have some information or knowledge regarding the
22 preparation of it?
23 A. I had made inquiry in regards to the
24 preparation of it. I don't have any knowledge of...

00048

1 Q. But this is the document among all of those
2 several attached to the notice of deposition about
3 which you are prepared to testify today; is that
4 correct?

5 A. Correct.

6 MR. LATHROP: Let's then mark this as the
7 next exhibit in line.

8 (Document marked as Harrington
9 Exhibit 5 for identification)

10 Q. Mr. Harrington, I'm now putting in front of
11 you what was marked as Exhibit 5, which purports to
12 be a Dracut seniority list, New Penn terminal
13 preference document. When is the first time you saw
14 that document?

15 A. I think I testified the last time I saw the
16 document was the last time we met.

17 Q. I take it from what you said I believe off
18 the record, that in response to the notice of taking
19 deposition, you made some inquiry concerning the
20 preparation of this document?

21 A. Yes.

22 Q. Could you describe for the record what
23 inquiry you made concerning the preparation of
24 Exhibit 5.

00049

1 A. I questioned office manager Sheila
2 McLaughlin as to her recollection of the document,
3 since it had a Local 25 fax number on top.

4 Q. Did you do anything else other than
5 question Ms. McLaughlin?

6 A. I think I -- hold on. Sheila McLaughlin?

7 Q. Yes.

8 A. Yes, and then after she gave me an
9 explanation that she couldn't have possibly done the
10 document given the fact of the death of her father
11 around that time period, I then questioned Janet
12 McLaughlin as to her knowledge of who may have
13 prepared the document at the Local union since
14 Sheila was out.

15 Q. You were present while Janet McLaughlin
16 testified earlier as part of this same 30(b)(6)
17 deposition?

18 A. I was.

19 Q. Did you learn from her anything different
20 than she testified to a few minutes ago?

21 A. No.

22 Q. Have you done anything else to gather
23 information with regard to the preparation of this
24 document?

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1 A. No.
2 Q. Do you have any understanding as to whose
3 handwriting this is?
4 A. No.
5 Q. Do you have any understanding as to who
6 prepared the typed portion of the document?
7 A. No.
8 Q. Did you personally ask any office personnel
9 other than the two Ms. McLaughlin's with regard to
10 Exhibit 5?
11 A. No.
12 Q. Is there any particular reason why you did
13 not ask other office personnel with regard to
14 Exhibit 5?
15 A. Yes.
16 Q. What was that?
17 A. Delegation.
18 Q. What do you mean by that?
19 A. Chain of command. You ask the office
20 manager to find out from staff if they had anything
21 to do with it. She was not present at the time of
22 this polling that was going on.
23 I then asked the executive secretary
24 because Mr. Cashman at the time was very involved

00051

1 with the Freight Division, and so she would be the
2 next logical person to go to.

3 Then she, in turn, as she already
4 testified, went through the staff and made inquiries
5 as to their participation in this.

6 Q. I apologize, because you already talked
7 about the date of this document. Were you
8 referencing the date 2/20/02 that appears on top as
9 apparently a fax number?

10 A. Yes.

11 Q. I apologize, because I know you testified
12 to this, what capacity did you hold as of
13 February 20, 2002 with Teamsters Local 25?

14 A. Trustee and business agent.

15 Q. At that point in time, you had
16 responsibility for APA?

17 A. Well, I was in the transition period
18 between APA and New Penn. APA was out of business.

19 Q. Immediately prior to this January 2002, you
20 had responsibility for APA, did you not?

21 A. Yes.

22 Q. The names on this list, they are APA
23 employees, are they not?

24 A. Yes.

00052

1 Q. Did you therefore, for example, know
2 Mr. McGonagle, the first name on this list?
3 MS. PENNINI: Objection. You can answer
4 the question.
5 A. I'm not sure if I know Mr. McGonagle, but I
6 know people on the list.
7 Q. Did you know No. 14, Mr. Guerrette?
8 A. Uh-huh.
9 Q. That's yes, you knew him?
10 A. I do know him. I did or do.
11 Q. Do you see where it says, "Compensation
12 Workmen's" written in behind his name?
13 A. Yes.
14 Q. Do you know if he ever went to work for New
15 Penn?
16 A. He has not.
17 Q. Do you know if he was ever offered the
18 opportunity to work for New Penn?
19 MS. PENNINI: Objection.
20 A. I do not.
21 Q. Do you know anything about his workers'
22 compensation status?
23 MS. PENNINI: Objection.
24 A. All I do know is that his case is still

00053

1 pending in front of the Joint Area Committee because
2 he is on litigation hold because he's still on
3 compensation, and because of the WARN Act claim
4 against APA, his case is still pending for possible
5 health and welfare and pension contributions if
6 there is ever a settlement made.

7 Q. Did you have any communications with
8 Mr. Guerrette concerning his possible preferences
9 for New Penn terminals?

10 A. No.

11 Q. Do you know who would have?

12 A. No.

13 Q. Was any other Teamsters representative in
14 January and February of 2002 responsible for the
15 Dracut APA terminal other than yourself?

16 A. No.

17 Q. Do you know who the shop steward, or the
18 steward I should say, was for the Dracut terminal
19 at APA --

20 MS. PENNINI: Objection. Sorry I
21 interrupted.

22 Q. -- as of February 2002?

23 A. Yes.

24 Q. Who was that?

00054

1 A. Richard Johnson.
2 Q. Is that No. 5 on this list?
3 A. Uh-huh.
4 Q. That's a yes?
5 A. Yes.
6 Q. Does Mr. Johnson, if you know, work for New
7 Penn now?
8 A. I believe he does.
9 Q. In your search to find out who created this
10 list, did you speak to Mr. Johnson about it?
11 A. I have not as of yet. I have not been able
12 to get ahold of him.
13 Q. You have attempted to?
14 A. (Witness nods)
15 Q. That's yes?
16 A. Yes.
17 Q. What methods have you used to attempt to
18 get ahold of him?
19 A. Barn visits, you know, go to the terminal,
20 which I do from time to time. I actually asked the
21 shop steward to have him give me a call.
22 Q. The current shop steward?
23 A. Down there, yes.
24 Q. Who is the current shop steward?

00055

1 A. Tim Halloron.
2 Q. I take it Mr. Johnson is working at the New
3 Penn Billerica terminal?
4 A. Yes.
5 Q. Do you have any reason to believe
6 Mr. Johnson prepared at least part of this document?
7 MS. PENNINI: Objection.
8 A. I have no knowledge one way or the other on
9 that.
10 Q. But that's indeed the point of your
11 attempting to speak to him, is it not, to find out
12 whether or not he was involved with the creation of
13 this document?
14 A. Yes.
15 Q. You have not been able to reach him so far,
16 correct?
17 A. So far.
18 Q. When did you first attempt to reach
19 Mr. Johnson?
20 A. Last week. I spoke to the shop steward
21 first. I have not heard back from Mr. Johnson as of
22 yet.
23 Q. Did you attempt to call the number listed
24 next to Mr. Johnson's name?

00056

1 A. I did not.

2 Q. Any particular reason why not?

3 A. No.

4 MR. LATHROP: Let me take a five-minute
5 break.

6 (Recess)

7 MR. LATHROP: This is directed to you,
8 Ms. Pennini. I think that we're going to have to
9 leave this deposition open for the following reason.

10 As you recall, you were here when
11 Mr. Francey testified about the creation of a
12 document in which he used the seniority list to get
13 from Canton APA employees their terminal
14 preferences. Therefore, I think there's a
15 reasonable chance to believe that Mr. Johnson in a
16 similar capacity at Dracut was in some way involved
17 and had some knowledge of the creation of Exhibit 5.

18 I appreciate the fact Mr. Harrington has,
19 in fact, attempted to reach him, but he has been
20 successful. To the extent you are saying that --
21 and I'm not disputing the legal position -- there's
22 nothing inappropriate for you to present a 30(b)(6)
23 witness who says, "I have done the research, and we
24 have no knowledge," in this case, the research is

00057

1 not quite done. We have not heard from Mr. Johnson.
2 I'm not, quite frankly, sure how we are
3 going to close the loop on this, but rather than say
4 I'm done with all my questions, I think I have to
5 reserve my right to be able to resume this 30(b)(6)
6 deposition. And we can talk about this in terms of
7 the details of it, because I'm not trying to make
8 life difficult for anyone.

9 MS. PENNINI: If you want to go off the
10 record, I have some suggestions of how we can do
11 this without having Mr. Gluek having to fly back for
12 a two-minute conversation.

13 MR. LATHROP: But you understand that that
14 piece of information -- I just want to reserve my
15 right to be able to pursue that level of inquiry,
16 because there's a potential person who has not yet
17 been reached and who may have some not only
18 information, but may be partial author. It is not
19 absurd to think he could be a partial author of the
20 document, especially the handwritten portions.

21 I want to reserve my rights. We can go off
22 the record to discuss any logistics issues you want
23 to deal with regarding that.

24 You also seemed to imply during the break

00058

1 between the two witnesses that there may be more
2 information.

3 MS. PENNINI: No. What I was referring to
4 in regard to that is when Janet McLaughlin asked all
5 of the office staff whether they had seen the
6 exhibits, she testified as to she did the same thing
7 regarding Exhibit 1. If you need her to come in and
8 say that again...

9 MR. LATHROP: I think we got that
10 indirectly.

11 MS. PENNINI: That's the only point I
12 wanted to state. She would say she spoke to the
13 same people that she testified she spoke to for
14 Exhibits 2 and 3, and by "Exhibits 2 and 3," I mean
15 of the amended deposition exhibit numbers.

16 MR. LATHROP: That's fine.

17 MR. GLUEK: My position would be that as it
18 relates to Exhibit 5, this is irrelevant and not
19 likely to lead to the discovery of admissible
20 evidence because the plaintiff was not even at this
21 location.

22 In fact, you have already taken the
23 deposition of Mr. Francey, which he's the one who
24 was responsible for the location where the plaintiff

00059

1 was located, and you were able to ask questions of
2 Mr. Harrington about anything he did with respect to
3 any employee preferences at that location.

4 MR. LATHROP: I think we are engaging in
5 argument. I will argue to the contrary.

6 I'm curious as to the fact that we seem to
7 have circumstances of people who were on workers'
8 compensation by appearances that don't get asked by
9 the union as to their preferences or that they would
10 get left off the list. That would be my connection.
11 We can argue that, if need be, in front of the
12 judge.

13 I still technically reserve my right, but I
14 have no further questions of Mr. Harrington at this
15 time. We can go off the record.

16 MS. PENNINI: For the record, I have a
17 similar objection as Attorney Gluek as to the Dracut
18 seniority list and how if it was, in fact, a steward
19 that did this, how one steward is relevant to how it
20 was done at the facility at which Mr. Goulet's name
21 if it should have appeared, would have appeared.

22 MR. LATHROP: The only thing that's
23 interesting -- and now we are engaging in argument
24 that we may have in front of a judge -- of course,

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1 there was a later list that I think it was
2 Pages 3 and 4 of Exhibit 3 that specified a Dracut
3 list in which certain names did or did not appear.
4 It varies. Therefore, I would like the opportunity,
5 if need be, to make my argument about relevance.
6 There not being a judge present, we don't need to go
7 into that.

8 We can go off the record and have a
9 discussion as to the logistics suggestions you have
10 vis-a-vis trying to close this deposition. Is that
11 fair to everyone?

12 MS. PENNINI: Okay.

13 MR. GLUEK: Yes.

14 (Discussion off the record)

15 (Whereupon the deposition
16 was adjourned at 12:22 p.m.)
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00061

1 C E R T I F I C A T E
2 I, MARK HARRINGTON, do hereby certify that I
3 have read the foregoing transcript of my testimony,
4 and further certify under the pains and penalties of
5 perjury that said transcript (with/without)
6 suggested corrections is a true and accurate record
7 of said testimony.
8 Dated at _____, this ____ day of _____,
9 2005.

10 _____
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00062

1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)

3 I, Ken A. DiFraia, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that there came before me on the 15th day of Nov.,
7 2005, at 12:00 p.m., the person hereinbefore named,
8 who was by me duly sworn to testify to the truth and
9 nothing but the truth of his knowledge touching and
10 concerning the matters in controversy in this cause;
11 that he was thereupon examined upon his oath, and
12 his examination reduced to typewriting under my
13 direction; and that the deposition is a true record
14 of the testimony given by the witness.

15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto
18 or financially interested in the action.

19 In witness whereof, I have hereunto set my hand
20 and affixed my notarial seal this ____ day of Nov.,
21 2005.

22 _____
23 Notary Public

24 My commission expires 4/3/09

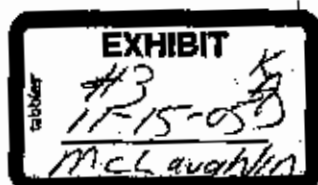
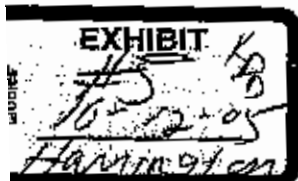
02/22/02 FRI 15:28 FAX 7172338023
02/22/2002 15:18 2826248722TEAMSTERS 77A
IBT NAT FRT DIV001
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EX 3

D017

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TEAMSTERS

002

Dracut Seniority List

NewPerrin Terminal Preferences

Number	Name	Seniority Date	Preference 1	Preference 2
117-443-69 04 1	McGonigle, H.	05/28/1976	Billerica	
17-667-21 22 2	Adams, W.	05/16/1977	Billerica	
77-938-63 3	Sullivan, Jr., J. 781 9388 639	02/21/1979	Billerica	
508-975-41 33 4	Mooney, A.	05/01/1985	Billerica	
108-683-35 20 5	Johnson, R.	08/02/1985	Billerica	
08-988-01 60 6	Murray, B.	10/02/1983	Billerica	
708-922-41 64 87	Martin, D.	10/23/1983	Billerica	Springfield
508-975-04 17 8	Partridge, G.	10/24/1983	Billerica	Springfield
08-468-5 62 59	Lortio, V.	08/30/1984	Billerica	Springfield Burlington VT.
-679-84 97 10	Thibeault, R.	01/17/1986	Billerica	
03-382-06 20 11	Shepard, G.	01/30/1986	Billerica	
03-437-51 28 12	Roddy, J.	02/12/1987	Billerica	
178-957-78 66 13	Jussame, M.	02/14/1987	Billerica	
03-881-74 31 14	Guerette, M.	02/21/1987	Compensation	W. Woodmen
03-998-135 1 15	Johnson, C.	10/01/1987	Billerica	Springfield
03-668-04 84 16	Camire, H.	10/07/1987	Billerica	
08-689-19 24 17	Racoon, R.	10/14/1987	Billerica	Springfield
78-663-67 94 18	Walodowicz, S.	06/01/1988	Billerica	
03-432-43 27 19	Hibsey, R.	10/22/1988	Billerica	Springfield
03-647-54 32 20	Camery, III, R.	10/23/1988	Billerica	
78-685-21 31 21	Michaud, J.	10/26/1988	Billerica	
09-880-82 69 22	Babin, M.	10/30/1988	Billerica	
03-444-18 95 23	Boynton, E.	12/01/1988	Billerica	Burlington VT.
03-772-57 04 24	Small, Jr., C.	09/08/1989	Billerica	
03-729-44 36 25	Guimond, N.	10/01/1989	Billerica	
78-632-31 05 26	Vaughan, M.	10/04/1989	Billerica	Springfield
03-626-78 05 27	Chaffour, P.	10/06/1989	Billerica	
78-486-30 13 28	Tucker, J.	10/18/1989	Billerica	Springfield
03-888-41 49 29	Dion, R.	10/28/1989	Billerica	
0603-537-15 41 30	Amesbury, Jr., R.	08/18/2000	Billerica	
978-685-49 16 31	Monasse, Jr., J.	12/22/2000	Billerica	
03-635-235 32	Levine, J.	08/18/2001	Billerica	

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1ST NAT FRT DEV

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NAME	ADDRESS	CITY	ST	ZIP	TELEPHONE	SOCIAL	SEN. DATE	PREF. 1	PREF. 2
1. McGonigle, III	1 Madlyn Road	Billerica	MA	01821	978-663-6290	017-42-3653	5/28/1976	Billerica	
2. Adams, W.	11 Charles Anne Lane	Billerica	MA	01821	978-667-2122	024-31-3090	5/16/1977	Billerica	
3. Sullivan, Jr., J.	29 Harold Avenue	Woburn	MA	01801	781-938-4127	031-32-8152	2/21/1979	Billerica	
4. Mooney, A.	2A Salem Street	Laverne	MA	01843	978-258-0112	032-62-9902	5/21/1985	Billerica	
5. Johnson, R.	190 Ames Street	Laverne	MA	01841	108-087-1946	031-40-2093	9/02/1993	Billerica	
6. Murray, S.	6 Cambridge Avenue	Wilmington	MA	01837	978-988-0160	032-44-9468	10/02/1997	Billerica	
7. Martin, D.	8 Riverway Street	Beverly	MA	01905	508-744-0538	033-54-9412	10/21/1993	Billerica	Springfield
8. Patridge, G.	16 Amherst Street	Laverne	MA	01843	308-688-6128	024-50-4465	10/24/1993	Billerica	Springfield
9. Leitch, V.	67 Lincoln Avenue	Hamilton	MA	01982	508-468-5625	014-41-0194	9/30/1994	Billerica	Burl, VT
10. Tibbault, R.	29 Lyford Lane	Broomfield	NH	03833	603-679-2780	003-68-2694	1/17/1996	Billerica	
11. Shepard, G.	PO Box 239	Broomfield	NH	03826	603-329-1170	030-58-0954	1/30/1996	Billerica	
12. Ruddy, J.	PO Box 116	Hampstead	NH	03842	603-437-5128	026-52-5930	2/12/1997	Billerica	
13. Jusepunas, M.	126 Windbleton Xing	Dixson	MA	01826	508-957-7866	022-66-1772	2/14/1997	Billerica	
14. Gosselle, M.	44 Riverside Avenue	Hudson	NH	03051	603-930-8165	001-68-0753	2/22/1997	W. Orleans	Comp.
15. Johnson, C.	22 Baldwin Street	Salem	NH	03079	603-898-1331	002-54-9837	10/01/1997	Billerica	Springfield
16. Coontz, H.	344 Woodcrest Court	Methuen	NH	03103	603-668-0464	003-34-1587	10/07/1997	Billerica	
17. Macgregor, R.	90 Polkman Street	Methuen	MA	01844	978-689-1924	016-54-4648	10/14/1997	Billerica	Springfield
18. Walsworth, S.	6 Hartwick Avenue	Billerica	MA	01821	978-660-4794	032-28-1751	6/30/1998	Billerica	
19. Rogers, R.	291 Juniper Drive	Alton	NH	03809	603-661-9109	023-48-5983	10/22/1998	Billerica	Springfield
20. O'Leary, III, R.	16 Woodridge Drive	Albany	NH	01223	403-210-1432	019-62-0292	10/23/1998	Billerica	
21. Macdonald, J.	117 Pleasant Valley Street	Methuen	MA	01844	978-685-2161	004-56-3117	10/26/1998	Billerica	
22. Dooly, M.	1 Hillside Drive	Hudson	NH	03051	603-880-8269	011-60-7884	10/30/1998	Billerica	
23. Boylston, E.	19 Truck Lane	Lithton	NH	03561	603-444-6895	002-32-6377	12/01/1998	Billerica	Burlington, VT
24. Small, Jr., C.	6 Powder Mill Road	Billerica	NH	03813	603-772-5704	003-56-7029	9/08/1999	Billerica	
25. Ginnond, N.	43 Oak Road	Methuen	NH	03854	603-429-4436	003-54-8360	10/01/1999	Billerica	
26. Veuglin, M.	171 Otter River Road	Gardner	MA	01440	978-672-1105	026-54-6222	10/04/1999	Billerica	Springfield
27. Chelmar, P.	107 Leda Avenue	Methuen	NH	03103	603-668-0464	001-56-8192	10/05/1999	Billerica	

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28	Troster, J.	69 Taylor Street	Lifton	MA	01460	978-486-1013	031-56-8037	10/16/1999	Billerica	Syracuse
29	Dion, R.	6 Edwards Avenue	Nashua	NH	03060	603-888-4649	603-40-7187	10/28/1999	Billerica	
30	Arnaud, Jr., R.	61 Scotts Pond Road	Dartmouth	NH	03038	603-537-1541	029-56-5209	8/18/2000	Billerica	
31	Morley, Jr., J.	29 Salem Street	Lawrence	MA	01843	978-238-0112	032-62-9902	12/22/2000	Billerica	
32	Levin, J.	20 Litchfield Circle	Pelham	NH	03076	603-635-2357	030-52-0519	9/16/2001	Billerica	

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INT NAT FRT DSV

PA 86

1	Paul, B.	68 Spring St.	Bedford	MA	02181	(781) 848-6208	014-20-8140	144268	Rel
2	Burd, P.	B. Crt. Woods Ct.	Norton	MA	02788	(508) 285-9452	018-38-0650	613070	Prov.
3	McCarthy, M.	288 Shaw St.	Brahme	MA	02184	(781) 848-9223	028-32-0083	107770	Rel.
4	Hartox								
5	McCarthy, M.	118 Forest St.	Horton	MA	02311	(781) 847-9455	018-34-8116	614073	Rel
6	Seibauer, D.	72 Paul Rd.	Haverhill	MA	02339	(781) 871-8525	024-38-8888	113373	Rel.
7	Land, D.	540 Bedford St.	Ashington	MA	02861	(781) 874-0416	028-34-8318	144474	Rel
8	Paul, A.	1111 Boston Rd.	Weymouth	MA	02188	(781) 317-3557	024-38-7772	313174	Rel
9	Paul, M.	116 Highland Ave.	Quincy	MA	02169	(781) 871-0988	034-38-8600	915175	Rel.
10	Dunne, M.	111 Pond St.	Swartha	MA	02777	(508) 674-7883	022-44-2801	920075	Prov.
11	Hoff, H.	25 Gough St.	Foxboro	MA	02035	(508) 643-2878	026-34-7678	814776	Rel
12	Land, R.	1571 Liberty St.	Shelton	MA	02184	(781) 843-1649	023-38-8387	827276	Rel
13	Deanna, M.	31 Washington St.	Shelton	MA	01770	(508) 561-8086	018-40-9114	272277	Rel.
14	Burton, T.	17 Hildebrand Ex.	Plymouth	MA	02380	(508) 724-5584	018-40-7891	1022477	Prov.
15	Rafael, R.	P.O. Box 765	Easton	MA	02334	(508) 730-2836	036-30-0401	14678	Prov.
16	Kelley, J. W.	308 Field St.	Brockton	MA	02403	(508) 583-0861	015-40-7156	372778	Rel.
17	Marshall, H.	4 Kelly Ln.	Horton	MA	02341	(781) 878-2761	016-36-5014	1115478	Prov.
18	Paul, J. E.	815 King St.	Haverhill	MA	02338	(781) 871-7648	022-44-8082	472378	Rel.
19	Pickering, G.	53 Roseland St.	N. Weymouth	MA	02186	(781) 837-8778	031-40-8888	83181	Rel.
20	Tipton, B.	17 Marsh Ave.	Salem	MA	03079	(603) 890-8183	031-44-3942	517783	Rel.
21	Damiano, J.	22 Hardy Dr.	E Bridgewater	MA	02333	(508) 378-3792	014-52-3774	772083	Prov.
22	Gwyn, M.	283 Central St.	E. Bridgewater	MA	02333	(508) 378-0488	021-46-0257	574784	Prov.
23	Candora, P.	804 Maple St.	Malden	MA	02148	(508) 339-8134	020-46-8824	872484	Prov.
24	Blackford, R.	20 E. Nilsson St.	Brockton	MA	02301	(508) 586-6540	015-54-3381	893085	Rel.
25	Cook, D.	230 State Rd.	Plymouth	MA	02380	(508) 888-6864	001-38-1210	48873	Rel.
26	McGee, B.	233 Commonwealth Rd.	Weymouth	MA	01778	(608) 653-8174	022-32-9993	672084	Rel.
27	Finey, G.	324 Flag St.	Bridgewater	MA	02324	(508) 897-8620	024-48-6404	1092307	Prov.
28	Cutler, M.	103 So. Perkins St.	Lakeville	MA	02347	(608) 946-0330	026-44-1817	473084	Prov.
29	Power, K.	18 Carver St.	Wentworth	MA	02472	(617) 825-6324	020-38-0473	1171854	Rel.
30	Fennelly, E.	160 Washington St. Unit 706	Providence	MA	02782	(508) 896-3075	016-42-3810	372385	Prov.
31	McGee, H.	1165 Main St.	Worcester	MA	02081	(608) 896-0248	010-38-5812	876186	Prov.
32	Bala, S.	28 Ponce Ct.	Holbrook	MA	02343	(781) 767-8228	067-54-7053	370187	Rel.
33	Holbrook, J.	138 Church St.	Wentworth	MA	02080	(781) 328-9587	022-30-6547	578188	Rel.
34	Horne, T.	127 Church Ct.	Brockton	MA	02072	(781) 344-1804	026-60-9122	615189	Prov.
35	Horne, B.	53 Bedford St.	Brockton	MA	02072	(781) 344-3671	026-62-4782	573190	Prov.
36	Berry, B.	807 Pond St.	B. Weymouth	MA	02300	(781) 306-4217	010-60-3637	621190	Prov.
37	Bullien, C.	4 Hodge Rd.	Norton	MA	02769	(508) 285-4918	010-66-8107	127801	Rel.
38	MacDonald, J.	1 Peabody Falls	Forestdale	MA	02544	(508) 471-5324	036-38-2371	127801	Prov.
39	Holbert, M.	4 First St.	Malden	MA	02148	(508) 339-8645	010-68-1605	127801	Rel.
40	O'Meara, W.	75 Central W.	Randolph	MA	02368	(781) 888-8688	022-64-0640	317183	Prov.
41	Forbes, M.	765 Washington St.	Walpole	MA	02081	(508) 661-5405	030-40-0042	82393	Prov.
42	Phinney, J.	36 Brown St.	Farleyevia	MA	02718	(508) 894-2614	018-52-2779	596193	Prov.
43	Fine, P.	6 Fall Ln.	Canton	MA	02021	(781) 878-3354	027-77-9016	848193	Prov.
44	Leban, D.	4 South St.	Canton	MA	02021	(781) 828-6595	030-80-7141	911093	Prov.

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45	Houde, G.	360 Cedar St.	New Bedford	MA	02740	(508) 998-8028	014-46-8398	874/493	Prov.
46	Roche, J.	3 Bulwark Ln.	Medway	MA	02053	(508) 533-7749	016-40-6591	876/683	Prov.
47	Stephen, J.	28 Jessie Ave.	S. Attleboro	MA	02703	(508) 761-8079	284-86-7845	871/783	Prov.
48	Carvalho, D.	383 Wareham St.	Middleboro	MA	02245	(508) 947-9183	024-82-2171	871/883	Prov.
49	Carey, P.	10 Grist Mill Ln.	Pembroke	MA	02358	(781) 829-8773	022-46-3165	862/783	Prov.
50	Creeghan, R.	62 Brookline Ter.	Wareham	MA	02788	(781) 335-8815	034-38-3176	871/934	Prov.
51	Perry, J.	59 Yarmouth Ave.	Wareham	MA	02788	(508) 463-8145	025-64-3851	871/884	Prov.
52	Blake, R.	17 Glenfield Rd.	N. Attleboro	MA	02700	(508) 843-2239	033-64-8866	873/385	Prov.
53	Kenney, M.	38 Forest St.	Acushnet	MA	02243	(508) 783-4880	028-42-8836	44/785	Military
54	DeGuzza, B.	80 McCabo St.	S. Dairmouth	MA	02748	(508) 763-9880	016-88-8510	42/785	Prov.
55	Carney, J.	31 Arlington St. Apt. 3	Nashua	NH	03080	(603) 598-2882	028-64-4028	772/884	BT
56	Dolan, J.	18 Whittemore Ave.	W. Roxbury	MA	02132	(617) 323-2026	029-58-6578	772/595	BT
57	Pendleton, J.	1340 Broadway, Apt. 23	Roxbury	MA	02787	(508) 822-7740	027-58-2474	778/885	BT
58	Gilman, M.	74 Keith Ave.	Dorchester	MA	02301	(508) 585-1327	023-82-7312	823/886	Prov.
59	Parquette, D.	103 Hart St.	Taunton	MA	02780	(508) 823-7150	024-42-6554	824/886	Prov.
60	Spauld, J.	53 W. Chestnut St.	Brockton	MA	02301	(508) 556-0189	012-56-5039	801/786	Prov.
61	Kelley, Jr., R.	574 Hancock St.	Abington	MA	02351	(781) 982-9328	033-58-5675	825/887	BT
62	Johnson, Jr., R.	188 Walcott St.	Middleboro	MA	02348	(508) 946-1128	023-48-8251	815/887	Prov.
63	Cholihare, Jr., R.	52 Prospect St.	Attleboro	MA	02703	(508) 222-5176	028-54-8388	123/888	Prov.
64	Crawford, H.	4 W. Baker Rd.	Foxboro	MA	02835	(508) 543-4198	013-30-7278	823/888	Rel.
65	Clark, D.	7 Garden St.	Mandolph	MA	02268	(781) 953-0737	032-30-5886	173/889	Rel.
66	Wythe, A.	85 Harvard St.	Dorchester	MA	02108	(781) 326-4327	011-46-8027	828/889	Rel.
67	Kellishel, L.	239 Whittier St.	Brockton	MA	02402	(508) 659-5477	020-80-1827	876/889	Prov.
68	Mangus, P.	21 Drayton Dell Ln.	Dorchester	MA	02332	(781) 804-8886	003-30-9912	877/889	Prov.
69	Gould, D.	8 Roxbury Ln.	Rochester	MA	02170	(508) 763-8521	030-50-7782	917/889	Prov.
70	Marta, T.	24 Lake St.	Randolph	MA	02189	(508) 330-8919	037-38-8735	102/889	Prov.
71	Harrison, D.	8 Lynchman Rd.	W. Wareham	MA	02575	(508) 226-2878	028-60-3648	178/889	Prov.
72	Kelley, G.	164 Brookwood Ct.	Plymouth	MA	02350	(508) 224-7012	026-48-1306	122/299	BT
73	Wertz, E.	137 Leveeview St.	Dorchester	MA	02132	(508) 588-4547	033-86-8881	122/399	Prov.
74	Pratt, W.	80 Lester St.	Brockton	MA	02301	(508) 596-6082	028-64-8283	172/889	Prov.
75	Zorn, J. B.	385 America Pk.	Bridgewater	MA	02324	(508) 284-3788	032-64-8887	122/889	BT

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D022



Teamsters Local 25
International Brotherhood of Teamsters

MAR 04 2002

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Recording Secretary / Business Agent

MARK A. HARRINGTON
Trustee / Business Agent

LOU DIGIAMPAOLO
*Trustee / Director of Organizing /
Field Representative*

ERNEST C. SHEEHAN JR.
Trustee / Business Agent

VINCENT J. PISACRETA
Business Agent

ARTHUR J. LAZZERO
Business Agent

February 28, 2002

Dan Schmidt
Vice President of Labor Relations
New Penn Motor Express
625 So. 5th Ave. P.O. Box 630
Lebanon, PA 17042

Dear Mr. Schmidt:

Enclosed please find updated list of former employees of A.P.A. in Canton, Massachusetts. Please note that R. Petit's area code number has changed from (781) to (617) and T. Sullivan has changed his preference from Providence, Rhode Island to Billerica, Massachusetts.

Should you have any question, please contact Mark Harrington at 617-241-8825 extension #277.

Thank you for your attention to this matter.

Sincerely,

George W. Cashman
President/Principal Officer

GWC/jem

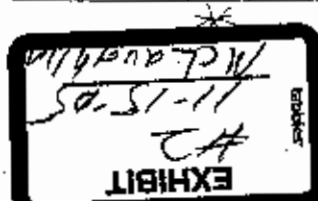
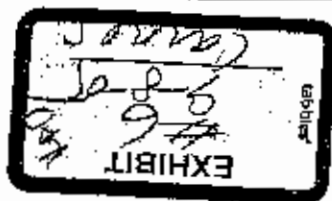
We will only accept deliveries from UNION carriers! All other deliveries will be refused!



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* CHANGE

CANTON	NAME	ADDRESS	CITY	STATE	ZIP	PHONE	DATE	PRE
1 CANTON	Proulx, R.	58 Spring St.	Braintree	MA	02184	(781) 848-5305	014-30-5149	11/12/68
2 CANTON	Burnit, P.	6 Grl. Woods Ct.	Norton	MA	02766	(508) 285-9452	018-38-0650	6/30/70
3 CANTON	McCaffrey, M.	29B Shaw St.	Braintree	MA	02184	(781) 848-9223	028-32-0083	10/7/70
4 CANTON	Heroux							
5 CANTON	Mastropietro, R.	215 Forest Trail	Hanson	MA	02311	(781) 447-9455	019-34-5115	6/14/73
6 CANTON	Satterland, D.	72 Paul Rd.	Hanover	MA	02339	(781) 871-3525	034-30-9685	11/3/73
7 CANTON	Lord, D.	560 Bedford St.	Abington	MA	02355	(781) 871-0416	029-34-8316	1/11/74
8 CANTON	Petit, A.	11 Hinson Rd.	Weymouth	MA	02180	(781) 337-3557	034-36-7772	3/11/74
9 CANTON	Petit, R.	115 Highland Ave.	Quincy	MA	02169	(617) 471-0098	034-38-9600	9/15/75
10 CANTON	Durelle, M.	111 Pond St.	Swansea	MA	02777	(508) 874-7683	022-44-2801	9/30/75
11 CANTON	Hoyt, H.	23 Garfield St.	Foxboro	MA	02035	(508) 543-2978	025-34-7578	8/17/76
12 CANTON	Ellis, R.	1573 Liberty St.	Braintree	MA	02184	(781) 843-1549	033-58-9397	8/27/76
13 CANTON	Deramo, M.	31 Washington St.	Sherborn	MA	01770	(508) 652-6085	018-46-8174	2/22/77
14 CANTON	Sullivan, T.	17 Hillside Dr.	Plymouth	MA	02360	(508) 224-5584	019-46-7991	10/24/77
15 CANTON	Rabideau, R.	P O Box 265	Easton	MA	02334	(508) 230-2436	030-30-9491	1/4/78
16 CANTON	Kelley, Jr., W.	306 Field St.	Brockton	MA	02403	(508) 583-0867	015-40-7150	3/27/78
17 CANTON	Monahan, H.	4 Kathy Ln.	Hanson	MA	02341	(781) 826-2751	015-36-5014	11/14/78
18 CANTON	Petit, Jr., E.	633 King St.	Hanover	MA	02339	(781) 871-7648	022-44-6082	4/23/79
19 CANTON	Pickering, G.	53 Rosalind St.	N. Weymouth	MA	02188	(781) 337-6278	031-40-9998	8/3/81
20 CANTON	Fisbert, B.	17 Marsh Ave.	Salerni	NH	03079	(603) 890-6183	631-44-3942	5/17/83
21 CANTON	Damiano, J.	22 Blaby Dr.	E Bridgewater	MA	02333	(508) 378-3792	014-52-3224	7/20/83
22 CANTON	Gwynn, N.	283 Central St.	E Bridgewater	MA	02333	(508) 378-0465	031-46-0257	5/14/84
23 CANTON	Cardozo, P.	804 Maple St.	Mansfield	MA	02048	(508) 339-5134	020-48-9624	9/24/84
24 CANTON	Bouffard, R.	20 E Nilsson St.	Brockton	MA	02301	(508) 580-6540	015-54-3381	9/30/85

EX
D02

25	CANTON	Coull, D	230 State Rd.	Plymouth	MA	02360	(508) 888-6964	021-38-1210	4/6/73	Ret.
26	CANTON	McGee, R.	437 Commonwealth Rd.	Wayland	MA	01770	(508) 653-8174	023-32-9993	5/20/82	Ret.
27	CANTON	Francey, G.	324 Flagg St.	Bridgewater	MA	02324	(508) 697-9620	024-46-6404	10/25/82	Prov.
28	CANTON	Cruise, M.	103 So. Pickens St.	Lakeville	MA	02347	(508) 946-0330	026-44-1817	4/30/84	Prov.
29	CANTON	Power, K.	16 Canal St.	Watertown	MA	02472	(617) 926-5324	020-38-9473	11/15/84	Bill.
30	CANTON	Fennelly, E.	160 Washington St., Unit #6B	Plainville	MA	02762	(508) 695-3075	018-42-3810	2/25/85	Prov.
31	CANTON	McGrain, H.	1165 Main St.	Walpole	MA	02081	(508) 668-0244	010-38-5912	8/26/85	Prov.
32	CANTON	Bain, S.	28 Poole Ct.	Holliston	MA	02343	(781) 767-6229	031-54-1053	3/9/87	Bill.
33	CANTON	Holderried, J.	139 Church St.	Westwood	MA	02090	(781) 329-3587	022-30-5547	5/8/89	Bill.
34	CANTON	Howe, T.	127 Everett Ct.	Sloughion	MA	02072	(781) 344-1904	025-55-9122	5/15/89	Prov.
35	CANTON	Howe, S.	53 Bradford St.	Sloughion	MA	02072	(781) 344-3871	026-52-4762	5/31/90	Prov.
36	CANTON	Barry, S.	367 Pond St.	So. Weymouth	MA	02190	(781) 335-4217	010-60-3537	5/31/90	Pass
37	CANTON	Sullivan, C.	4 Hadley Rd.	Norton	MA	02766	(508) 285-4918	010-56-8107	12/9/91	Bill.
38	CANTON	MacDonald, J.	1 Pebble Path	Forestdale	MA	02644	(508) 477-5324	036-38-2371	12/9/91	Prov.
39	CANTON	Hubert, M.	4 First St.	Mansfield	MA	02049	(508) 339-8545	010-58-1605	12/9/91	Bill.
40	CANTON	O'Meara, W.	75 Chestnut W.	Randolph	MA	02369	(781) 966-8686	022-64-0540	3/1/93	Prov.
41	CANTON	Fontes, M.	755 Washington St.	Walpole	MA	02081	(508) 563-5435	030-40-0342	9/3/93	Prov.
42	CANTON	Pimental, J.	36 Brown St.	Fair Haven	MA	02719	(508) 994-5614	019-52-2773	9/8/93	Prov.
43	CANTON	Friel, P.	5 Fair Ln.	Canton	MA	02021	(781) 828-3354	027-72-9016	9/9/93	Prov.
44	CANTON	Lehan, D.	4 South St.	Canton	MA	02021	(781) 828-6595	030-60-7141	9/10/93	Prov.
45	CANTON	Houde, G.	360 Cedar St.	New Bedford	MA	02740	(508) 996-6028	014-48-9398	9/14/93	Prov.
46	CANTON	Roche, J.	3 Bultercup Ln.	Medway	MA	02053	(508) 533-7249	018-40-0691	9/16/93	Prov.
47	CANTON	Stephen, J.	29 Jessie Ave.	S. Attleboro	MA	02703	(508) 761-6979	264-86-7645	9/17/93	Prov.
48	CANTON	Carvalho, D.	363 Wareham St.	Middleboro	MA	02346	(508) 947-	024-62-2171	9/18/93	Pass

49	CANTON	Carey, P.	19 Grist Mill Ln.	Pembroke	MA	02359	6163 (781) 829-8773	022-46-3185	10/27/93	Prov.
50	CANTON	Creighton, R.	42 Brooke Ter	Weymouth	MA	02188	(781) 335-8815	034-36-8176	9/1/94	(Prov.)
51	CANTON	Perry, J.	59 Yellowstone Ave	Warwick	RI	02886	(401) 463-8145	025-56-3951	9/10/94	P.w.
52	CANTON	Blake, R.	17 Glenfield Rd	N Attleboro	MA	02760	(508) 643-2239	033-64-8446	1/13/95	Prov.
53	CANTON	Kearley, M.	30 Carol St	Acushnet	MA	02743	(508) 763-4960	028-42-0595	4/4/95	Milita- ry
54	CANTON	DeSouza, B.	80 McCabe St	S. Dartmouth	MA	02748	(508) 763-9680	015-63-8510	4/5/95	Prov.
55	CANTON	Osmer, J.	31 Arlington St Apt 3	Nashua	NH	03060	(603) 580-2982	029-64-4926	7/24/95	Bl.
56	CANTON	Doan, J.	19 Willowdean Ave.	W. Roxbury	MA	02132	(617) 323-2026	028-58-5579	7/25/95	Bl.
57	CANTON	Pendleton, J.	1540 Broadway Lot 23	Raynham	MA	02767	(508) 822-7740	027-58-2474	7/8/96	Bl.
58	CANTON	Gilmore, M.	24 Keith Ave.	Brockton	MA	02301	(508) 580-1327	023-62-7312	9/23/96	Prov.
59	CANTON	Parquette, D.	103 Hart St.	Taunton	MA	02780	(508) 823-7150	024-42-6554	9/24/96	Prov.
60	CANTON	Spazio, J.	53 W Chestnut St.	Brockton	MA	02301	(508) 559-0189	012-56-5039	10/4/96	Prov.
61	CANTON	Kelley, Jr., R.	674 Hancock St	Abington	MA	02351	(781) 982-9328	033-56-3526	3/25/97	Bl.
62	CANTON	Johnson, Jr. R.	185 Wareham St.	Middleboro	MA	02346	(508) 946-1129	023-48-8251	4/15/97	Prov.
63	CANTON	Choiniere, Jr., R.	52 Prospect St.	Attleboro	MA	02763	(508) 222-5776	026-54-9388	12/30/98	(Prov.)
64	CANTON	Crawford, H.	4 W Belcher Rd	Foxboro	MA	02035	(508) 543-2196	013-30-7278	12/31/98	Rel.
65	CANTON	Clark, D.	7 Garden St.	Randolph	MA	02368	(781) 963-5737	032-30-5856	1/3/99	Rel.
66	CANTON	White, A.	95 Harvard St.	Dedham	MA	02026	(781) 326-4327	011-48-5027	8/26/99	
67	CANTON	Kelleher, T.	239 Winter St.	Brockton	MA	02402	(508) 559-5477	020-60-1827	9/15/99	Prov.
68	CANTON	Winqvist, P.	21 Dingley Dell Ln	Duxbury	MA	02332	(781) 834-5908	003-30-9912	9/17/99	Prov.
69	CANTON	Gould, D.	9 Boxberry Ln	Rochester	MA	02770	(508) 763-9521	030-50-7782	9/17/99	Prov.
70	CANTON	Morris, Y.	24 Lake St	Rehoboth	MA	02769	(508) 336-6919	037-26-9735	10/28/99	Prov.
71	CANTON	Hamilton, D.	8 Uncatena Rd.	W. Wareham	MA	02576	(508) 296-3979	026-50-3548	11/9/99	Prov.

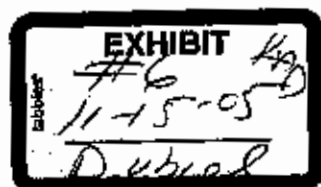
72	CANTON	Kelley, G.	104 Brentwood Cl.	Plymouth	MA	02360	(508) 224-7012	025-46-1306	12/22/99	Bill.
73	CANTON	Wertz, E.	137 Lawrence St.	Brockton	MA	02302	(508) 588-4847	033-66-8661	12/23/99	Prov.
74	CANTON	Palm, W.	89 Lester St.	Brockton	MA	02301	(508) 586-6682	029-64-9293	11/28/00	Prov.
75	CANTON	Zulauf, Jr. B.	365 Grange Pk.	Bridgewater	MA	02324	(508) 284-3796	032-54-657	12/4/00	Bill.

5/15 MB
1800 MB
MB
MB
MB

10/07/1970	M. McCaffrey	CANTON	781-848-9223	028 32 0083
11/05/1973	D. SETTERLAND	CANTON	781-871-3525	034 36 9585
09/15/1975	R. PETIT	CANTON	617-471-0098	034 38 9600
05/18/1976	J. McGONIGLE III	(DRACUT)	978 663 6290	
02/22/1977	M. D'ERAMO	CANTON	508-653-6086	018 46 9114
05/16/1977	W. ADAMS	(DRACUT)	978-667-2122	
03/22/1978	W. KELLEY, JR	CANTON	508-583-0861	015 40 7158
02/21/1979	J. SULLIVAN JR	(DRACUT)	781-938-8839	
04/23/1979	E. PETIT, JR	CANTON	781-871-7648	022 44 6082
08/03/1981	G. PICKERING	CANTON	781-337-6278	037 40 8998
05/17/1983	B. TISBERT	CANTON	603-890-6183	031 44 3942
05/01/1985	A. MOONEY	(DRACUT)	978 975 0595	
09/30/1985	R. BOUFFARD	CANTON	508 378 1543	015 54 3381
11/15/1984	K. POWER	CANTON	617-926-5324	020 39 9473
03/09/1987	S. BAIN	CANTON	781 767 6229	031 54 1053
05/08/1989	J. HOLDERRIED	CANTON	781 329 2587	022 30 5547
12/09/1991	C. SULLIVAN	CANTON	508-285-4918	010 56 8107
12/09/1991	M. HULBERT	CANTON	508-339-8545	010 58 1605
09/02/1993	R. JOHNSON	(DRACUT)	978 682 5247	
10/02/1993	S. MURRAY	(DRACUT)	508-988-0160	
10/23/1993	D. MARTIN	(DRACUT)	978 884 5789	
10/24/1993	G. PARTRIDGE	(DRACUT)	978 975 0417	
09/30/1994	V. LORIZIO	(DRACUT)	508-468-5625	
07/24/1995	J. OSMER	CANTON	603-598-2982	029 64 4926
07/25/1995	J. DOLAN	CANTON	617-323-2026	029 58 5578
01/17/1996	R. TRIBSAULT	(DRACUT)	603 673 2780	
02/25/1996	G. SHEPARD	(DRACUT)	603 382 1013	

PAGE 1

TO: ALL SUPERVISORS
 HERE IS THE LIST OF APA'S CASUALS
 TO AVOID A RUN AROUND ON ANYONE NOT AVAILABLE
 HAVE A TEAMSTER SIGN OFF AS A WITNESS



02/12/1997	J. RODDY	(DRACUT)	603-437-5128	
02/14/1997	M. JUSSAUME	(DRACUT)	978-957-7866	
02/21/1997	M. GUERRETTE	(DRACUT)	603-881-7431	maybe on compensatio
03/25/1997	R. KELLEY JR.	CANTON	781-982-9328	033 56 3626
10/01/1997	C. JOHNSON	(DRACUT)	603-898-1351	
10/07/1997	H. COMIRE	(DRACUT)	603-668-0484	
10/14/1997	R. RACIOPPI	(DRACUT)	508-689-1924	
06/01/1998	S. WALUKIEWICZ	(DRACUT)	978-663-6794	
10/22/1998	R. HUSSEY	(DRACUT)	603 661 9159	
10/23/1998	R. CARNEY III	(DRACUT)	603 210 1432	
10/26/1998	J. MICHAUD	(DRACUT)	978-685-2181	
10/30/1998	M. BABIN	(DRACUT)	603-880-8269	
12/01/1998	E. BOYNTON	(DRACUT)	603-444-6895	
09/08/1999	C. SMALL JR.	(DRACUT)	603 772 5704	
10/01/1999	N. GUIMOND	(DRACUT)	603-429-4436	
10/04/1999	M. VAUGHAN	(DRACUT)	978-632-3105	
10/05/1999	P. CHALIFOUR	(DRACUT)	603-626-7805	
10/18/1999	J. TUCKER	(DRACUT)	978-486-3013	
10/28/1999	R. DION	(DRACUT)	603-888-4649	
12/22/1999	G. KELLEY	CANTON	508-224-7012	025 46 1306
08/18/2000	R. ARSENAULT JR	(DRACUT)	603-537-1541	
12/04/2000	B. ZUTAUT, JR	CANTON	508-284-3796	
12/22/2000	J. MORASSE, JR.	(DRACUT)	978 556 9698	
09/18/2001	J. LEVINE	(DRACUT)	603-635-2357	

PAGE 2

TOP ALL SUPERVISORS
 HERE IS THE LISTS OF APA'S CASUALS
 TO AVOID A RUN AROUND ON ANYONE NOT AVAILABLE
 HAVE A TEAMSTER SIGN OFF A WITNESS.

02/25/2002 2:06 PM

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CRAIG GOULET,

Plaintiff,

vs.

**NEW PENN MOTOR EXPRESS, INC.,
et. al.,**

Defendant.

CASE NO. 04-12577 JLT

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO DEFENDANT
NEW PENN MOTOR EXPRESS**

1. Please provide the occupation, job title and relations (if any) to you and identify consistent with the above definition each person whom you expect to call as an expert witness at trial and state as to each such person:

- a. All background information by which you intend to qualify each such person as an expert witness;
- b. The subject matter on which each such expert is expected to testify;
- c. The substance of the facts to which each such expert is expected to testify;
- d. The substance of opinions to which each such expert is expected to testify; and
- e. A summary of the grounds for each opinion to which each such expert is expected to testify.

ANSWER: At this time, Defendant has not retained an expert witness. Defendant will supplement as required by the Federal Rules of Civil Procedure and any local court rule.

2. Please state the name and address of every person who has any knowledge relating to the matters referred to in the pending lawsuit including, but not limited to, any witness to or participants in the incidents or with knowledge of the allegations at issue or participants in the incidents at issue, and for each such person state:

- a. the substance of the knowledge the person has; and
- b. The source of the person's knowledge.

ANSWER: See Defendant's initial disclosures. In addition, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, see the documents already produced by the Defendant.

3. Please describe in detail the substance of any communications which Defendant's employees and/or agents had with the Plaintiff or any other person relating in any way to the incidents alleged in the Complaint, and for each such communication, kindly provide the approximate date, time, place, form and substance of the communication and identify all persons present or who have knowledge of the communication.

ANSWER: Outside of the grievance proceeding, to Defendant's knowledge, Defendant's employees have not had any communications with the Plaintiff.

4. Please describe in detail the substance of any communications which Defendant's employees and/or agents had with defendant Teamsters Local 25's employees and/or agents or any other person relating in any way to the incidents alleged in the Complaint, and for each such communication, kindly provide the approximate date, time, place, form and substance of the communication and identify all persons present or who have knowledge of the communication.

ANSWER: Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, see the documents already produced by the Defendant. In addition, in approximately May 2003, Paul Dubiel asked William Carnes why the grievance was filed against the Defendant.

5. Please describe all facts within your knowledge of the defenses described above or alleged in your Answer, and for each identify any witnesses and/or documents supporting said defenses, and provide a brief summary of facts of which each such witnesses has knowledge relative to each such defense, if not provided in response to a previous interrogatory(ies).

ANSWER: Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, see the documents already produced.

6. Please describe in detail defendant New Penn Motor Express' procedure for possessing grievances received by it, for the years 2001 to date.

ANSWER: Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, see the collective bargaining agreements that have already been produced.

7. Attached as Exhibit 1 is the A.P.A. Transport Corp. Canton Seniority List for November, 2001 (which document was produced by defendant Teamsters Local 25). With regard to this document, please state if defendant New Penn Motor Express ever received this document. If so, please:

- a. Identify who received this Seniority List;
- b. When this Seniority List was received; and
- c. The method whereby it was received.

ANSWER: Objection. The document attached is marked as Exhibit 2. Assuming that Exhibit 2 is the document intended to be referred to in Interrogatory No. 7, Defendant states that it received the document at some point in time, although it does not recall precisely when, at its corporate office from A.P.A.

8. Please describe in detail all actions taken by defendant Teamsters Local 25 to put Craig Goulet on the defendant New Penn Motor Express call list for the Billerica, Massachusetts, terminal.

ANSWER: Defendant is not aware of any action taken by Teamsters Local 25.

9. Please describe in detail all communications between defendant Teamsters Local 25 and defendant New Penn Motor Express with regard to Craig Goulet from March 1, 2002, to date.

ANSWER: See response to Interrogatory No. 4.

10. Please state whether defendant New Penn Motor Express ever received a grievance filed by Craig Goulet with regard to his not being put on the defendant New Penn Motor Express call list for the Billerica, Massachusetts, terminal. If so, please state:

- a. When this grievance was first received;
- b. Who first received this grievance;
- c. The method whereby it was received; and
- d. all actions taken by defendant New Penn Motor Express to respond to this grievance.

ANSWER: The grievance was received by U.S. mail on or after April 18, 2003 at the Billerica terminal by Paul Dubiel. Mr. Dubiel discussed the matter with Daniel Schmidt and it was determined to be untimely.

11. Please identify the person at defendant New Penn Motor Express who was assigned to handle the contractual affairs between defendant New Penn Motor Express and defendant Teamsters Local 25 from April 1, 1998, to date.

ANSWER: Daniel Schmidt, V.P. Labor Relations
Charles Zaccaria, Regional Manager
Paul Dubiel, Terminal Manager

12. Did defendant Teamsters Local 25 refer Craig Goulet to defendant New Penn Motor Express for work opportunity. If so, please:

- a. State the date on which this was done; and
- b. Describe in detail all actions taken with regard to such referral.

ANSWER: No.

13. Please state whether defendant New Penn Motor Express purchased the A.P.A. Transport Corp. customer list. If so, please state the date when this purchase was completed.

ANSWER: The customer list was not purchased from A.P.A.

14. Please describe in detail what action, if any, that defendant New Penn Motor Express took upon receipt of the letter dated April 18, 2003, from defendant Teamsters Local 25 to Mr. Charles Zaccaria, Vice President of New Penn Motor Express Inc., which letter was in regard to Craig Goulet.

ANSWER: Objection. Without the letter being attached, Defendant cannot answer this interrogatory.

15. Please state whether A.P.A. Transport Corp. ever provide defendant New Penn Motor Express with any seniority list for any A.P.A. Transport Corp. terminals. If so, please:

- a. State when the list(s) was (were) received;
- b. Identify who received the list(s);
- c. Describe in detail what, if anything, was done with the list(s);
- d. Describe in detail what actions were taken, if any, with regard to the list(s); and
- e. Identify the actual list(s) received.

ANSWER: See response to Interrogatory No. 7. Also, Defendant used the list to check seniority.

16. When and how was defendant New Penn Motor Express first put on notice that Craig Goulet wished to be placed on defendant New Penn Motor Express' Billerica, Massachusetts, terminal call list.

ANSWER: Defendant first learned that Plaintiff wished to be placed on the terminal call list when it received a copy of the grievance on or about April 18, 2003.

17. At any time prior to March 31, 2003, was the list of former A.P.A. Transport Corp. employees on the defendant New Penn Motor Express Billerica, Massachusetts, terminal call list exhausted? If so, please state when.

ANSWER: Yes. Defendant does not recall at this time when it was exhausted.

18. Were any A.P.A. Transport Corp. employees offered a second opportunity to place their names on any call list with defendant New Penn Motor Express between March 1, 2002, and March 31, 2003? If so, please:

- a. Identify each employee; and
- b. Stat the date when such second opportunity was offered.

ANSWER: Not to Defendant's knowledge.

19. Please state whether defendant New Penn Motor Express was ever provided with any list or identification of A.P.A. Transport Corp. employees who were collecting worker's compensation benefits or disability. If so, please:

- a. Identify who provided this list or identification;
- b. State when this list or identification was provided; and
- c. Identify who received this list or identification.

ANSWER: No.

20. Please state the number of times, if any, that defendant New Penn Motor Express postponed the grievance hearing before the Southern New England Joint Area Committee regarding grievance filed by Craig Goulet.

ANSWER: Once.

21. Please state whether defendant New Penn Motor Express ever directly notified any A.P.A. Transport Corp. employee regarding being placed on a call list. If so, please:

- a. State when the notification was made;
- b. Identify who made the notification;
- c. Describe in detail what the notification indicated; and
- d. Identify the actual notification.

ANSWER: No.

22. Please state whether defendant New Penn Motor Express ever offered any A.P.A. Transport Corp. employees work opportunities covered by article 14, section 2, and article 14, section 3, of the 1998-2003 National Master Freight Agreement. If so, please:

- a. Identify those employees;
- b. State the date when such work opportunities were offered;
- c. Identify the terminals for which such work opportunities were offered.

ANSWER: No.

AS TO OBJECTIONS:



Craig Goulet

By his attorney

Scott A. Lathrop, Esq.
Scott A. Lathrop & Associates
122 Old Ayer Road
Groton, MA 01450
(978) 448-8234
BBO No. 287820

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRAIG GOULET,)	CASE NO. 04-12577 JLT
)	
Plaintiff,)	
)	
vs.)	DEFENDANT'S RESPONSE TO
)	PLAINTIFF'S SECOND SET OF
NEW PENN MOTOR EXPRESS, INC.,)	INTERROGATORIES TO DEFENDANT
et. al.,)	<u>NEW PENN MOTOR EXPRESS</u>
)	
Defendant.)	

23. In answering Interrogatory No. 7, defendant New Penn Motor Express stated that it received the attached A.P.A. Transport Corp. Canton Seniority List for November, 2001, "at some point in time, although it does not recall precisely when, at its corporate office from A.P.A." Given that answer, please state:

- a. New Penn Motor Express' best recollection as to when it received this document;

RESPONSE: New Penn does not recall the date it received the document, but it received the document as part of its due diligence in connection with A.P.A. and, thus, it was prior to March 1, 2002.

- b. Whether New Penn Motor Express received this document before March 31, 2003;

RESPONSE: Yes.

- c. Whether New Penn Motor Express received this document before March 1, 2002;

RESPONSE: Yes.

- d. All actions, if any, taken by New Penn Motor took in response to the receipt of that document;

RESPONSE: To the extent that New Penn Motor Express, Inc. understands this interrogatory, it used the document to conduct due diligence and to determine what the seniority was for A.P.A. employees.

- e. All actions, if any, taken by Penn Motor Express to put plaintiff Craig Goulet on a call list; and

RESPONSE: None, because the Union did not supply Plaintiff's name and preference as required pursuant to the agreement between New Penn Motor Express and with the Teamsters National Freight Industry Negotiating Committee.

- f. If it did not take any action to put Craig Goulet on a call list, why not.

RESPONSE: See above.

24. In answering Interrogatory No. 15, defendant New Penn Motor Express stated that it used the attached A.P.A. Transport Corp. Canton Seniority List for November, 2001, "to check seniority." Given that answer, please:

- a. State New Penn Motor Express' best recollection as to the period time over which it used this document to check seniority;

RESPONSE: New Penn does not recall exactly, but the approximate period of time would have been February 13, 2002 through March 1, 2002.

- b. Identify those person(s) for whom it used this document to check seniority;

RESPONSE: Daniel Schmidt, Susan Miller and Penney Seyfert.

- c. State whether it used this list to put A.P.A. drivers on a call list, and if not, why not; and

RESPONSE: No. See response to interrogatory No. 24 e.

- d. Identify any and all documents it used in order to A.P.A. drivers on a call list.

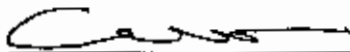
RESPONSE: See Exhibits 2 and 3 attached to Plaintiff's Opposition to the Union's Motion for Protective Order.

Craig Goulet

By his attorney

Scott A. Lathrop, Esq.
Scott A. Lathrop & Associates
122 Old Ayer Road
Groton, MA 01450
(978) 448-8234
BBO No. 287820

AS TO OBJECTIONS:



Carl H. Gluek (Ohio Bar #0029531)

FRANTZ WARD LLP

2500 Key Center

127 Public Square

Cleveland, OH 44114-1230

Telephone: (216) 515-1660

Facsimile: (216) 515-1650

cgluek@frantzward.com

Nicholas A. Klinefeldt (BBO # 647422)

KELLY, LIBBY & HOOPES, P.C.

175 Federal Street

Boston, Massachusetts 02110

Telephone: 617-338-9300

Facsimile: 617-338-9911

nklinefeldt@klhboston.com

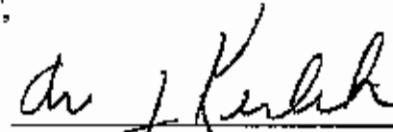
Attorneys for Defendant, New Penn Motor Express, Inc.

STATE OF PENNSYLVANIA)
)
COUNTY OF LEBANON) SS:

VERIFICATION

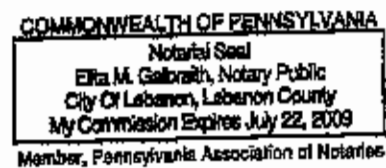
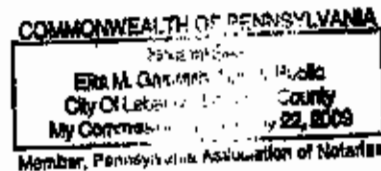
Andrew J. Kerlik, VP Risk Management and Human Resources, for New Penn Motor Express, Inc. being first duly sworn according to law, states that he has reviewed Defendant's Responses to Plaintiff's Second Set of Interrogatories to Defendant New Penn Motor Express in the case captioned *Craig Goulet v. New Penn Motor Express, Inc., et al.*, Case No. 04-12577 JLT, in the United States District Court, District of Massachusetts, and that the same are true to the best of his knowledge.

FURTHER AFFIANT SAYETH NAUGHT,


Andrew J. Kerlik

SWORN TO before me and subscribed in my presence on this 28 day of October 2005.


Notary Public



TEAMSTERS UNION LOCAL 25 GRIEVANCE REPORT

COMPANY: NEW PENN MOTOR EXPRESS

NAME: CRAIG GOVLET

ADDRESS 305 COX ST. HUDSON, MA. 01749

BUSINESS AGENT'S NAME: William H. CARNES

DATE OF COMPLAINT APR. 17th 2003

NATURE OF GRIEVANCE: SENIORITY RIGHTS:

IN ACCORDANCE WITH THE NATIONAL MASTER FREIGHT AGREEMENT ARTICLE #5 AND ALL OF ARTICLE #5 SUBSECTION ALONG WITH THE NEW ENGLAND SUPPLEMENTAL FREIGHT AGREEMENT ARTICLE # 43 - SENIORITY INCLUDING ALL OF ARTICLE 43'S SUBSECTIONS, I AM FILING A GRIEVANCE AGAINST NEW PENN MOTOR EXPRESS TO INCLUDE ALL TIME LOST, BACK PAY, SENIORITY AND CONTRACTUAL BENEFITS UNDER THE CONTRACT AGREEMENT, FROM MARCH 1ST 2002 UP TO AND CONTINUING PAST MARCH 1ST 2003, BASED ON AGREEMENT BETWEEN TNF INC AND NPME AS A RESULT OF THE CLOSURE OF A. P. A. OPERATIONS

Craig Govlet



Teamsters Local 25
International Brotherhood of Teamsters

544 MAIN STREET • BOSTON, MASSACHUSETTS 02129-1113 • 617-241-8825 • Fax 617-242-4284
www.teamsterslocal25.com

GEORGE W. CASHMAN
President / Principal Officer

RITCHIE E. REARDON
Secretary-Treasurer

WILLIAM H. CARNES
Vice President / Business Agent

JOHN A. MURPHY
Recording Secretary / Business Agent

MARK A. HARRINGTON
Trustee / Business Agent

LOU DIGIAMPOLLO
Trustee / Director of Organizing /
Field Representative

COLLEEN BRADY
Trustee / Special Projects Coordinator

ARTHUR J. LAZZERRO
Business Agent

SEAN M. O'BRIEN
Business Agent

JAMES E. WILSON
Business Agent

April 18, 2003

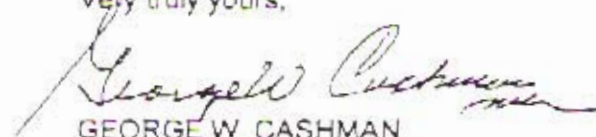
Mr. Charles Zaccaria, Vice President
New Penn Motor Express, Inc.
Sterling Road
Post Office Box 516
Billerica, MA 01821

Dear Mr. Zaccaria:

Enclosed for your processing, please find a copy of the grievance received by Vice President/Business Agent William H. Carnes from Craig Goulet, dated April 7, 2003.

If you have any questions, please do not hesitate to contact Mr. Carnes at the above number.

Very truly yours,


GEORGE W. CASHMAN
President

WHC/mh

Enclosure: 1

C: Craig Goulet



We will only accept deliveries from UNION carriers! All other deliveries

D03

CR 119
Goulet
305 COX ST
Hudson, MA
01949

U.S. MAIL
CERTIFIED MAIL[®]



7002 3150 0001 9650 9266



9264



02129

U.S. POSTAGE
PAID
HUDSON, MA
01949
APR 5, 03
AMOUNT

\$4.42
00046413-02

TEAMSTER'S UNION LOCAL 25
544 MAIN STREET
BOSTON, MASSACHUSETTS
02129-1113

Attention: William H. Curran

02129-1113 16



TEAMSTERS UNION LOCAL 25 GRIEVANCE REPORT

COMPANY: NEW PENN MOTOR EXPRESS

NAME: CRAIG GOVLET

ADDRESS: 305 COX ST. HUDSON, MA. 01749

BUSINESS AGENTS NAME: William H. CARNES

DATE OF COMPLAINT: APRIL 7th 2003

NATURE OF GRIEVANCE: SENIORITY RIGHTS:

IN ACCORDANCE WITH THE NATIONAL MASTER FREIGHT AGREEMENT ARTICLE #5 AND ALL OF ARTICLE #5 SUBSECTIONAL AGING WITH THE NEW ENGLAND SUPPLEMENTAL FREIGHT AGREEMENT ARTICLE # 43 - SENIORITY INCLUDING ALL OF ARTICLE 43'S SUBSECTIONS, I AM FILING A GRIEVANCE AGAINST NEW PENN MOTOR EXPRESS TO INCLUDE ALL TIME LOST, BACK PAY, SENIORITY AND CONTRACTUAL BENEFITS UNDER THE CONTRACT AGREEMENT, FROM MARCH 1ST 2002 UP TO AND CONTINUING PAST MARCH 1ST 2003, BASED ON AGREEMENT BETWEEN TNFING AND NPME AS A RESULT OF THE CLOSURE OF A. P. A. OPERATIONS

Craig Govlet

July 25th 2003

Mark:

I have enclosed for you
copies of the Grievance I sent
to Bill Carnes along with the
postal receipt and letter which
was sent to the CO.

Let's not lose sight of the
real issue here. This grievance
is about seniority rights under the
agreement, not whether one was
capable of working or not. It is
my understanding that I in fact was
an employee of A.P.A. My name
should have been on that list
and therefore I should have been
called period.

Summary Agreement states
all employees with seniority
which I had. Therefore one would
have to agree that my rights were
disregarded for what ever reason
which was and I regret 2003-100151



UNDERSTAND.

I WOULD ALSO ARGUE THAT UNDER THE NMFA ARTICLE 14 SECTION 3 THAT THE CO DID NOT MEET THERE OBLIGATION OR AT THE VERY LEAST RECOGNIZE IT, WHICH LEAVES YET ANOTHER ISSUE TO ADDRESS

OVER THE YEARS I HAD ASKED ADA TO PUT ME BACK TO WORK LIGHT DUTY OR OTHERWISE AND THERE DEFENSE WAS THAT I WAS NO LONGER AN EMPLOYEE I WAS DISCHARGED 3/11/87 AS YOU KNOW THE AREA COM-T COMMITTEE PUT THE CASE ON HOLD BECAUSE IT WAS LEID UP IN ANOTHER VENUE (DIA) ??

SEP 08 2003
SOUTHERN NEW ENGLAND JOINT AREA COMMITTEE

Employer Co-Secretary
Robert Schaeffer
Transport Employers Association
56 Main Street, 2nd Floor
Cornellus, New York
Tel: (800)-552-0099
Fax: (315)-672-3640

Union Co-Secretary
John A. Murphy
Teamsters Local 25
544 Main Street
Boston, MA 02129
Tel: (617)-241-8825
Fax: (617)-242-4284

PRE-HEARING INFORMATION

In order that the Committee Members may be familiar with the important facts in this case, please fill out the following form as completely as possible. The information submitted herein will be treated as a preliminary statement of your position.

Name and Address of Employer Involved: New Penn Motor Express, Inc., Sterling Road POB 516, Billerica, MA 01821

Local Union/Agent/Address involved Mark A. Harrington, Secretary Treasurer
544 Main Street, Boston, MA 02129

Name of Grievant Craig Goulet Classification: _____

Indicate Article of Contract which you claim was violated: Article: _____ Section: _____ Article: _____
 Section: _____; Article: _____ Section: _____ Article: _____ Section: _____

Amount being claimed, if any: _____

Date when company took action against employee or alleged violation took place: _____

Date when grievance was first taken up with management: _____

INCLUDE BRIEF RESUME OF PERTINENT FACTS:

POSITION OF FILING PARTY: Per the APA/New Penn Agreement Craig Goulet should have been called for work at New Penn Motor Express. The Union seeks that Brother Goulet be returned to the seniority list.

PREPARE FOUR (4) COPIES

- 1st copy - Employer Co-Secretary
- 2nd copy - Union Co-Secretary
- 3rd copy - Company involved
- 4th copy - Local Union

Submitted by: Mark A. Harrington
Mark A. Harrington, Secretary Treasurer

Date: September 3, 2003

FOR COMMITTEE USE ONLY

DATE RECEIVED _____ CASE NUMBER _____ DATE HEARD _____





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JAMES E. WILSON
Business Agent

WALTER H. CAMPBELL
Business Agent

ROBERT B. McALLISTER
Business Agent

TEAMSTERS LOCAL 25 VS.

NEW PENN MOTOR EXPRESS, INC.
INVOLVING

CRAIG GOULET - CASE No. SC-21-04
ARTICLE 32, Sections 1 & 2

Gentlemen:

Brother Goulet has been a Teamster since 1979, and was employed by Sanborn's Transportation, earning his seniority in 1989. After the Sanborn acquisition, he went to work in the Canton, MA terminal in October, 1987.

On March 11, 1987, Mr. Goulet sustained a work place injury. As a result of that incident, he was seriously injured (torn rotor cuff, 2 herniated disks, and torn ligaments of the right knee). To add insult to injury, APA terminated Brother Goulet for gross negligence. His termination case was filed by the Local Union and placed on "committee hold" due to his worker's compensation status. Mr. Goulet notified the Local Union in the middle of 2001 that he had exhausted his worker's compensation and he would like his case to proceed to arbitration.

On October 16, 2001, Mr. Goulet's case was presented by myself before the Southern New England Joint Area Committee and a decision was rendered in favor of Mr. Goulet. The decision [Exhibit 1] reinstated him back to his former position at APA.

As we all know, APA ceased operations in mid February, 2002. Mr. Goulet had not yet returned to work, but was placed back on the APA seniority list as of November, 2001. [Exhibit 2].

However, on the call list [Exhibit 3] Mr. Goulet name is omitted, indicating that he was never given the opportunity to bid on a location. He will also testify that he spoke with the steward.

It is the position of Teamsters Local 25 that New Penn bypassed Mr. Goulet and never gave him the opportunity to establish himself with New Penn. Mr. Goulet is entitled to compensation and seniority based on the following:

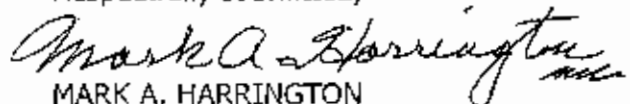
2/8/05 CG 56

We will only accept deliveries from UNION carriers! All other deliveries will be refused!

- 1) Mr. Goulet notified the steward Doug Francey of his desire to go to the Billerica, MA terminal.
- 2) Mr. Goulet had sufficient seniority to be called for work.
- 3) The agreement is silent with respect to New Penn's obligation to workers on disability, worker's compensation, etc. **[Exhibit 4]**

Since Mr. Goulet was never contacted by New Penn it is Local 25's position that the company failed to abide by the agreement.

Respectfully submitted,


MARK A. HARRINGTON
Secretary-Treasurer

MAH/mh

July 22, 2004

LIST OF EXHIBITS

- Exhibit 1. Decision from New England Joint Area Grievance Committee – dated October 16, 2001.**
- Exhibit 2. Seniority List – dated November, 2001 – with grievant's name on list No. 22.**
- Exhibit 3. Seniority List – dated July 14, 2004 – with grievant's name omitted from list.**
- Exhibit 4. Summary of the Tentative Agreement between TNFINC and NPME as a Result of the Closure of APA Operations**

**NEW ENGLAND JOINT AREA GRIEVANCE COMMITTEE
DECISION FORM**

Established in accordance with the terms and conditions of the National Master Freight Agreement and the New England Supplemental Freight Agreement, entered into by and between the Local Unions and Carriers engaged in City Pickup and Delivery and/or Over-the-Road Freight Operations.

Teamster Local(s) No./Agent: 25 / M Harrington

CASE NO.: 87-404

Grievant: Craig Goulet

Employer: APA Transport Corp.

We, the undersigned parties to the National Master Freight Agreement and the New England Supplemental Freight Agreement hereby agree to submit the dispute to arbitration under the Rules of Procedure prescribed by the NE Joint Area Grievance Committee, by virtue of its authority, as set forth in Articles 7 and 8 of the National Master Freight Agreement and Articles 43 and 46 of the New England Supplemental Freight Agreement, the following:

Alleged violation of Article 47. Union seeks man to be returned to work with all lost wages, H, W and Pension. 3/01- Union request this case be placed back on the SNE JAC docket for hearing.

The undersigned further agree that a majority decision of the NE Joint Area Committee in the above dispute will be final, conclusive and binding with no appeal and, further, that neither party will attempt through any overt acts, to void the decision rendered. Failure to comply may result in economic action within the confines of Article 8 of the National Master Freight Agreement and Article 45 and 46 of the New England Supplemental Freight Agreement.

Employer: APA Transport Corp.

Local Union(s): 25

Signed: B Trebour

Signed: M Harrington

This is the Official Award and Decision of the New England Joint Area Grievance Committee. Decision must be promptly complied with and all Monetary Awards must be paid in pay period for the week following receipt of Decision.

- DECISION -

The Panel in Executive Session, motion made, seconded and carried the Company's Point of Order was not upheld. The Panel after hearing the case, motion made, seconded and carried that upon submitting acceptable documentation to the Company of his ability to return to unrestricted duties, the grievant shall serve a ten (10) day suspension. Upon completion of the suspension he shall be reinstated to the seniority list in his original position.

DECISION DATE: 10/16/2001

EMPLOYER PANEL:

Scalzo

Picarello

UNION PANEL:

Mundy*

Fenlason

2/8/05 CG 59

CANTON SENIORITY LIST

LOCAL UNION 25

NOVEMBER 2001

1	Prout, R.	11/12/68
2	Burrill, P.	06/30/70
3	McCaffrey, M.	10/07/70
4	Mastropietro, R.	06/14/73
5	Setterland, D.	11/05/73
6	Loud, D.	01/11/74
7	Petit, A.	03/11/74
8	Petit, R.	09/15/75
9	Durette, M.	09/30/75
10	Hoyt, H.	08/17/76
11	Pitts, R.	08/27/76
12	D'Eramio, M.	02/22/77
13	Sullivan, T.	10/24/77
14	Rabideau, R.	01/04/78
15	Kelley, Jr., W.	03/22/78
16	Monahan, H.	11/14/78
17	Petit, Jr., E.	04/23/79
18	Pickering, G.	08/03/81
19	Tisbert, B.	05/17/83
20	Damiano, J.	07/20/83
21	Gwynn, N.	05/14/84
22	Goulet, C.	06/28/84
23	Cardoza, P.	09/24/84
24	Bouffard, R.	09/30/85
25	Coult, D.	04/06/73
26	McGee, R.	05/20/82
27	Francey, G.	10/25/82
28	Cruise, M.	04/30/84
29	Power, K.	11/15/84
30	Fennelly, E.	02/25/85
31	McGrath, H.	08/26/85
32	Bain, S.	03/09/87
33	Holderriod, J.	05/08/89
34	Howe, T.	05/15/89
35	Howe, S.	05/31/90
36	Berry, S.	05/31/90
37	Sullivan, C.	12/09/91
38	MacDonald, J.	12/09/91
39	Hulbert, M.	12/09/91
40	O'Meara, W.	03/01/93

2/8/05 CG 60

DRACUT SENIORITY LIST**LOCAL UNION 25 JANUARY 2002**

1 Tyler, Jr., G.	09/08/65
2 McGonigle, III, J. (Road)	05/28/76
3 Adams, W.	05/16/77
4 Sullivan, Jr., J.	02/21/79
5 Mooney, A.	05/01/85
6 Johnson, R.	09/02/93
7 Truscillo, R. (Road)	10/01/93
8 Murray, S. (Road)	10/02/93
9 Martin, D.	10/23/93
10 Partridge, G.	10/24/93
11 Lorizio, V. (Road)	09/30/94
12 Thibeault, R.	01/17/96
13 Shepard, G.	01/30/96
14 Roddy, J.	02/12/97
15 Jussaume, M.	02/14/97
16 Guerrette, M.	02/21/97
17 Johnson, C.	10/01/97
18 Comire, H. (Road)	10/07/97
19 Racioppi, R.	10/14/97
20 Walukiewicz, S.	06/01/98
21 Hussey, R.	10/22/98
22 Carney, III, R.	10/23/98
23 Michaud, J.	10/26/98
24 Babin, M.	10/30/98
25 Boynton, E. (Road)	12/01/98
26 Small, Jr. C.	09/08/99
27 Guimond, N.	10/01/99
28 Vaughan, M.	10/04/99
29 Chalifour, P.	10/05/99
30 Tucker, J.	10/18/99
31 Dion, R.	10/28/99
32 Arsenault, R., Jr.	08/18/00
33 Morasse, J. Jr.	12/22/00
34 Levine, J.	09/18/01

jm 1/29/02

2/8/05 CG 61

DRACUT MECHANICS SENIORITY LIST

LOCAL UNION 25 SEPTEMBER 2001

1 Oakes, D.

02/28/71

2 Dawson, M.

05/15/95

09/18/01
jm

2/8/05 CG 62

NAME	ADDRESS	CITY	ST	ZIP	TELEPHONE	DOB	DATE	RET
1 Prout, R.	58 Spring St	Braintree	MA	02184	(781) 848-5305	014-30-5149	11/12/68	Ret
2 Burdell, P.	8 Gt Woods Ct	Norton	MA	02768	(508) 285-9452	018-38-0650	6/30/70	Prov.
3 McCaffrey, M.	295 Shaw St	Braintree	MA	02184	(781) 848-8223	028-32-0083	10/17/70	Bill
4 Heroux								
5 Mastropietro, R.	215 Forest Trail	Hanson	MA	02311	(781) 447-9455	019-34-5116	6/14/73	Ret
6 Seidenhand, D.	72 Paul Rd.	Hanover	MA	02339	(781) 871-3525	034-36-9685	11/31/73	Bill
7 Loud, D.	580 Bedford St	Abington	MA	02351	(781) 671-0416	028-34-8316	11/11/74	Ret
8 Pett, A.	11 Hinson Rd.	Weymouth	MA	02188	(781) 337-3567	034-36-7772	3/11/74	Ret
9 Pett, R.	115 Highland Ave.	Quincy	MA	02169	(781) 471-0096	034-38-9600	9/15/75	Bill
10 Durelle, M.	111 Pond St.	Swansea	MA	02777	(508) 874-7683	022-44-2801	9/30/75	Prov.
11 Hoyt, H.	23 Garfield St.	Foxboro	MA	02035	(508) 543-2978	025-34-7576	8/17/76	Ret
12 Ellis, R.	1573 Liberty St.	Braintree	MA	02184	(781) 843-1549	033-58-9397	8/27/76	Ret
13 Deranno, M.	31 Washington St.	Sherborn	MA	01770	(508) 652-6086	018-46-9114	2/22/77	Bill
	17 Hillside Dr.	Plymouth	MA	02360	(508) 224-5584	019-46-7991	10/24/77	Prov.
	P.O. Box 265	Easton	MA	02334	(508) 230-2436	030-30-9491	1/4/78	Prov.
16 Kelley, Jr., W.	306 Field St	Brockton	MA	02403	(508) 583-0861	015-40-7158	3/27/78	Bill
17 Monahan, H.	4 Kathy Ln.	Hanson	MA	02341	(781) 826-2751	015-36-5014	11/14/78	Bill
18 Pett, Jr., E.	633 King St	Hanover	MA	02339	(781) 871-7648	022-44-6082	4/23/79	Bill
19 Pickering, G.	53 Rosalind St.	N. Weymouth	MA	02188	(781) 337-6278	031-40-9998	8/3/81	Bill
20 Tibbet, B.	17 Marsh Ave.	Salem	MA	03079	(603) 890-6163	031-44-3942	5/17/83	Prov.
21 Damiano, J.	221 Abby Dr.	E Bridgewater	MA	02333	(508) 378-3792	014-52-3224	7/20/83	Prov.
22 Gwynn, N.	283 Central St.	E Bridgewater	MA	02333	(508) 378-0466	031-46-0257	5/14/84	Prov.
23 Cardoza, P.	804 Apple St.	Mansfield	MA	02048	(508) 339-5134	020-48-9524	9/24/84	Prov.
24 Bourfard, R.	20 E. Nilsson St.	Brockton	MA	02301	(508) 588-6540	015-54-3381	9/30/85	Bill
25 Goull, D.	230 State Rd.	Plymouth	MA	02360	(508) 888-6964	021-38-1210	4/6/73	Ret
26 McGee, R.	437 Commonwealth Rd.	Wayland	MA	01778	(508) 653-8174	023-32-9993	5/20/82	Ret
27 Francey, G.	324 Flagg St.	Bridgewater	MA	02324	(508) 697-9620	024-46-8404	10/25/82	Prov.
28 Cruise, M.	103 So. Pickens St.	Lakeville	MA	02347	(508) 948-0330	026-44-1817	4/30/84	Prov.
29 Power, K.	16 Carver St.	Walden	MA	02472	(617) 926-5324	020-38-9473	11/15/84	Bill
30 Fennelly, E.	160 Washington St., Unit #68	Plainville	MA	02762	(508) 695-3075	018-42-3810	2/25/85	Prov.
31 McGrath, H.	1165 Main St	Waldpole	MA	02081	(508) 668-0244	010-38-5912	8/26/85	Prov.
32 Bain, S.	28 Poole Ct.	Holbrook	MA	02343	(781) 767-0229	031-54-1063	3/9/87	Bill
33 Holderried, J.	139 Church St.	Westwood	MA	02090	(761) 329-3587	022-30-5547	5/8/89	Bill
34 Howe, T.	127 Everett Ct.	Stoughton	MA	02072	(781) 344-1904	025-56-9122	5/15/89	Prov.
35 Howe, S.	53 Bradford St.	Stoughton	MA	02072	(781) 344-3871	026-52-4762	5/31/90	Prov.
36 Berry, S.	367 Pond St.	So. Weymouth	MA	02150	(781) 335-4217	010-60-3537	5/31/90	Pass
37 Sullivan, C.	4 Hadley Rd.	Norton	MA	02766	(508) 285-4918	010-56-0107	12/9/91	Bill
38 MacDunnald, J.	1 Pebble Path	Forestdale	MA	02644	(508) 477-6324	036-38-2371	12/9/91	Prov.
39 Hubert, M.	4 First St.	Mansfield	MA	02048	(508) 339-8545	010-58-1605	12/9/91	Bill
40 O'Meara, W.	75 Chestnut W.	Randolph	MA	02368	(781) 986-8886	022-64-0540	3/1/93	Prov.
41 Fortes, M.	765 Washington St.	Walpole	MA	02081	(508) 668-5435	030-40-0342	8/3/93	Prov.
42 Pimental, J.	36 Brown St.	Fair Haven	MA	02719	(508) 994-5614	019-52-2773	9/8/93	Prov.
43 Friel, P.	5 Fall Ln.	Canton	MA	02021	(781) 828-3354	027-72-9016	8/9/93	Prov.
44 Letran, D.	4 South St.	Canton	MA	02021	(781) 828-5995	030-60-7141	9/10/93	Prov.

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Howard W. Rhinier, B.A.

45	Haude, G.	360 Cedar St.	New Bedford	MA	02740	(508) 996-6028	014-48-9398	9/14/81	Prov.
46	Roché, J.	3 Buttrick Ln.	Medway	MA	02053	(508) 533-7249	016-40-0591	8/16/93	Prov.
47	Stephen, J.	29 Jessie Ave.	S. Attleboro	MA	02708	(508) 761-5970	264-06-7645	9/17/93	Prov.
48	Carvalho, D.	363 Wareham St.	Middleboro	MA	02346	(508) 947-6163	024-62-2171	9/18/93	Prov.
49	Carey, P.	19 Grist Mill Ln.	Pembroke	MA	02359	(781) 829-8773	022-46-3105	10/27/93	Prov.
50	Creighton, R.	42 Brocks Ter.	Weymouth	MA	02188	(781) 335-8815	034-36-8176	9/1/94	Prov.
51	Perry, J.	59 Yellowstone Ave.	Wenham	RI	02886	(401) 463-8145	025-58-3951	9/10/94	Prov.
52	Blake, R.	17 Glenfield Rd.	N. Attleboro	MA	02780	(508) 643-2239	033-64-8440	1/13/95	Prov.
53	Kearley, M.	30 Carol St.	Acushnet	MA	02743	(508) 763-4980	028-42-0585	4/4/95	Military
54	DeSouza, B.	80 McCabe St.	S. Dartmouth	MA	02748	(508) 763-9680	016-68-8510	4/5/95	Prov.
55	Ostner, J.	31 Atlington St. Apt 3	Nashua	NH	03860	(603) 598-2982	029-64-4826	7/24/95	Bill.
56	Dolan, J.	19 Willowdean Ave.	W. Roxbury	MA	02132	(617) 323-2026	025-56-5579	7/25/95	Bill.
57	Pendleton, J.	1540 Broadway Lot 23	Raynham	MA	02767	(508) 822-7740	027-58-2474	7/8/96	Bill.
58	Gilmore, M.	24 Keith Ave.	Brookton	MA	02301	(508) 588-1327	023-62-7312	9/23/96	Prov.
	Parquette, D.	103 Hart St.	Taunton	MA	02780	(508) 823-7150	024-42-6554	9/24/96	Prov.
	Spano, J.	53 W. Chestnut St.	Brookton	MA	02301	(508) 569-0189	012-58-5039	10/1/96	Prov.
61	Kelley, Jr., R.	674 Hancock St.	Abington	MA	02351	(781) 982-9328	033-56-3526	3/25/97	BR.
62	Johnson, Jr. R.	186 Wareham St.	Middleboro	MA	02346	(508) 946-1129	023-48-8251	4/15/97	Prov.
63	Chohiere, Jr., R.	52 Prospect St.	Attleboro	MA	02703	(508) 222-5776	026-54-9398	12/30/98	Prov.
64	Crawford, H.	4 W. Becker Rd.	Foxboro	MA	02035	(508) 543-2196	013-30-7278	12/31/98	Ret.
65	Clark, D.	7 Garden St.	Randolph	MA	02368	(781) 983-5737	032-30-5866	1/3/99	Ret.
66	Walle, A.	95 Harvard St.	Dedham	MA	02026	(781) 326-4327	011-48-0927	8/26/99	Prov.
67	Kelleher, T.	239 Winter St.	Brookton	MA	02402	(508) 559-5477	020-60-1827	9/15/99	Prov.
68	Wingquist, P.	21 Dingley Dell Ln.	Duxbury	MA	02332	(781) 834-5908	003-30-9912	9/17/99	Prov.
69	Gould, D.	9 Roxbury Ln.	Rochester	MA	02770	(508) 763-9521	030-50-7762	9/17/99	Prov.
70	Morris, T.	24 Lake St.	Rehoboth	MA	02769	(508) 336-6919	037-26-9735	10/28/99	Prov.
71	Hamilton, D.	8 Uncatena Rd.	W. Wareham	MA	02576	(508) 295-3979	026-50-3548	11/9/99	Prov.
72	Kelley, G.	164 Brentwood Ct.	Plymouth	MA	02360	(508) 224-7012	025-46-1306	12/22/99	Bill.
73	Wertz, E.	137 Lawrence St.	Brookton	MA	02302	(508) 588-4847	033-66-8661	12/23/99	Prov.
74	Palm, W.	89 Lester St.	Brookton	MA	02301	(508) 586-6682	029-64-9293	11/28/00	Prov.
75	Zidant, Jr. B.	365 Grance Pl.	Bridgewater	MA	02324	(508) 284-3796	032-54-667	12/4/00	Bill.

**SUMMARY OF THE TENTATIVE AGREEMENT
BETWEEN TNFNC AND NPME AS A RESULT OF THE
CLOSURE OF APA OPERATIONS**

As a result of the closure of APA operations and the purchase of certain customer information by New Penn Motor Express (NPME), APA employees will be affected as follows:

1. **Seniority Date.** By Friday, March 1, 2002, all employees with seniority at APA shall have the right to be put on the "call list" of ONE NPME terminal (or the classification seniority list, where applicable) within the NMFA supplemental area where they currently are employed. APA over-the-road drivers, active or inactive on separate over-the-road seniority at the Buffalo, NY, Philadelphia, PA and North Bergen, NJ terminals, shall only have the right to place his/her name on the over-the-road terminal seniority call list at one of the following NPME terminals where such same separate seniority exists: Albany, NY, Cinnaminson, NJ (Philadelphia area), Newburgh, NY and Trenton, NJ.

APA employees added to the NPME terminal call lists as described above shall be worked as casuals on the basis of their APA seniority and paid as casual employees in accordance with the Local Supplement. APA employees shall have work opportunity ahead of NPME casual employees, but shall not have work opportunity ahead of any NPME probationary or preferred casual employees, if applicable.

APA employees shall establish seniority at NPME in accordance with the following provision: Any APA NMFA employee who works thirty (30) days within any two (2) consecutive calendar month period shall be deemed to have obtained seniority and shall be placed on the NPME seniority list in accordance with established seniority date, end-tailed after the NPME seniority employees on such seniority list.

2. **Wage Rates.** APA employees on the call list at a NPME terminal shall be paid the casual rate of pay. However, when the APA employee works thirty (30) days within any two (2) consecutive calendar month period and is placed on the NPME seniority list, such employee will

receive 90% of the applicable full NMFA rate in that supplemental area. After 6 months working at the 90% rate, the employee will progress to 100% of the full NMFA rate in the applicable supplemental area.

3. **Vacations.** During the first year of employment on the NPME seniority list (calendar year or contract year, depending on the applicable Local Supplement), a former APA employee on a NPME seniority list who qualifies for one week of vacation will receive, in addition to the earned vacation, a bonus of one additional week of vacation. Thereafter, each such former APA employee who qualifies for two weeks of vacation under the applicable Local Supplement will be granted one additional week for a total of three weeks. When any such employee qualifies for three (3) weeks or more of vacation under the applicable Local Supplement, no additional "bonus" weeks will be granted. Under no circumstances will any former APA employee receive more than one bonus week of vacation in any year. The vacation year being either contract or calendar year is determined by the applicable Local Supplement.

4. **Health & Welfare and Pension.** The former APA employees will be covered by the Teamster Health & Welfare and Pension Fund in which such former APA employee participated before the cessation of APA operations. All payments of health and welfare and pension by NPME on behalf of former APA employees shall be made in accordance with the NMFA and applicable Local Supplement.

5. **Teamsters' 401(k) Plan.** All former APA employees added to the NPME seniority list shall be eligible to participate in the Teamsters' 401(k) Plan as do other NPME employees.

EASTERN REGION JOINT AREA COMMITTEE

Kingston Plantation

Myrtle Beach, SC

July 28, 2004

COMMITTEE B

SC-21-04 Local 25 v. New Penn Motor Express, Inc.

On behalf of Craig Goulet, Union alleges violation of Article 32, Section 1, 2, September 2003, grievant should have been called for work at New Penn per APA/New Penn Agreement; requesting grievant be returned to proper seniority.

UNION PANEL: Ernie Soehl, Chairman
 Roger Fenlason
 Theodore Uniatowski

EMPLOYER PANEL: Robert Mergenbagen
 Gary Quinn
 Tony Nations

Ernie Soehl, Local 701, Chairman: Company, you want to identify yourself and the parties with you?

Daniel Schmidt, New Penn Motor Express: Yes, Danny Schmidt for the Company and I don't have anybody with me.

Soehl: Union, identify yourself for the record.

Mark Harrington, Local 25, Business Agent: Harrington, Murphy, and the grievant Goulet.

Schmidt: The Company does have a point of order Mr. Chairman, that we passed out prior to getting into the case.

Soehl: What's your point of order?

Schmidt: Dan Schmidt for New Penn Motor Express. The case was 03-914 filed at the New England JAC, now the case is SC-21-04 filed at the Eastern Region JAC.

Mr. Chairman and Members of the Committee, I would first like to say, in my opinion, this was not an Article 32 case. The grievance makes reference to Article 5 and 43. Its docketed on the agenda here as Article 32, I don't know what happened there, but its not

an Article 32 case in my understanding. The Company raises a point of order. The Company contends that the grievant, Mr. Goulet is attempting to claim a seniority violation. Yet, Mr. Goulet has never placed an application for employment with New Penn Motor Express, Inc. nor was he referred to New Penn for work opportunity.

Harrington: I object. The Point of Order, he is getting into his whole case. His Point of Order is what?

Schmidt: This is my Point of Order. And Mr. Goulet has never worked a day.

Harrington: Again, he is getting into the case. What's the Point of Order?

Soehl: The Point of Order is what, you made referenced to Article 32?

Schmidt: One, the case is filed under 32. My understanding is its not a 32 case, the grievant says, I will show you what he says before we get into it. The grievance was filed by him on, drop down to the last paragraph, dated April 7, 2003, received by the Company on April 18, 2003, okay, alleging a violation of March 1, 2002. In addition, the grievance was not docketed until September 2003, at the Southern New England Committee. Then, again docketed, never heard in Southern New England, then again docketed April 20, 2004, at the Eastern Region Committee. Exhibit 1, is a copy of the grievance which was forwarded to the Company by letter dated April 18, 2003, alleging a violation of March 1, 2002. If you go to exhibit 1.

Soehl: Hey Danny, wait a minute hang on, I have to ask you a question. What is your Point of Order?

Schmidt: I'm getting in to it, I'm telling you.

Soehl: All I heard you say so far, Article 32.

Schmidt: That's my first point of order. The case is filed improper before this Committee because its filed as a 32 and it isn't a 32 case, it's a 5, 43 case according to the grievance, that's one point.

Soehl: Ok, making it clearer. Is there another point?

Schmidt: Yes, oh yes, timeliness is a point. Let me clarify it for you.

Soehl: So its not only 32, its also timeliness.

Schmidt: Yes, and that's what I'm trying to get to Ernie.

Soehl: Hang on a minute, the Union brought up a question, which they had a right to do because all you told us about was 32, maybe if it was 32 and timeliness, they wouldn't have objected to you.

Schmidt: Well, I'm trying to get into the timeliness. You have to let me finish my brief. The grievance was filed by the grievant on April 7, 2003, received by the Company on April 18, 2003, alleging a violation on March 1, 2002. That's almost a year later, that's one point. Then the case wasn't even docketed until September 2003, that's two points untimely. Then, again, they took it off the New England Agenda, that they docketed late, and filed it down here on the April 20, 2004, agenda.

Harrington: Mr. Chairman, again I object. Their shooting a fish in a barrel. They should have a separate point of order for each issue he raised.

Soehl: On the 32 and on the timeliness. Mark, what are you saying on the point of order, you need to clarify?

Harrington: I'm saying, he should have a separate point of order for each issue he's raising. If you rule in favor of one, I'm just saying, this putting three or four different points of order on the table right now. You should put one point of order in per objections to our grievance.

Soehl: You want to respond to that?

Schmidt: My brief is written addressing the points of order that this grievance is improper before this Committee. I have a right to tell you why this grievance is improper before this Committee. If it's improper because of five reasons, I surely have that right and he has that right to rebut that. Let me read my brief and finish the point of order and he can rebut anything he wants.

Soehl: Danny, give us Executive Session.

Schmidt: No problem.

Tape turned off during Executive Session.

Soehl: Back on the record, please. Company continue with the point of orders that you raised.

Schmidt: Thank you. Exhibit 1 is a copy of the grievance which was forwarded to the Company by letter dated April 18, 2003, alleging violation of March 1, 2002, you have that in your packet. As you can see here it was send from George Cashman to Mr. Zaccaria, an employee of our Company.

"Enclosed for processing, please find a grievance that was submitted to William Comes by Mr. Goulet, dated April 7, 2003."

Okay, we got that, I'm going to guess on the 18th its dated, I will say that date I guess. Exhibit 2 is a copy of the pre-hearing information which shows that this grievance was first filed with the Southern New England Committee in September, in fact on September

30th. You have a copy of the grievance in your file, it shows that he is alleging a violation on March 1, 2002, as I said he filed it on April 7, 2003, you can look at the grievance and tell that. That's in your packet. The grievance was then docketed after we get it in April, it was docketed in September 3, 2003. April, May, June, July, August, September, about four or five, six months. Suppose to docket it within one month, under the contract, no big deal.

Exhibit 3 Gentlemen is a copy of the Grievances Machinery Language, Article 46 of the New England Agreement, which says that grievances must be docketed in thirty (30) days. This grievance, we received it on April 18th, by virtue of Mr. Cashman's letter. You have the docketing form that was sent to the Committee by the Union, that wasn't even sent until September 3, 2003. A copy of Article 7 is attached in your file which your all familiar with, that all grievances must be docketed for a decision no later than thirty (30) days, again that did not happened.

Exhibit 5 Gentlemen, is a copy of a pre-hearing form for the Eastern Region now, we never heard the case in New England, it just went from that agenda down here. It was docketed here in April 20, 2004, you have a copy of that pre-hearing form in your packet. Therefore, the Company contends the grievant, A) was never an employee, as I told you initially, the grievant also filed the grievance untimely, almost a year, from March 1, 2002, to April 2003, before he even filed a grievance. The case was then filed for whatever reason after Mr. Carnes left on September 3, 2003, untimely filed to the New England Committee and then ultimately filed again on April 20, 2004, untimely filed to this Committee. Therefore, based on those facts, the Company contends that this grievance is surely improper before this Committee.

Soehl: That's your Point of Order?

Schmidt: Yes.

Soehl: Union, you want to respond to the point of order?

Harrington: Surely, I want to give some background to this situation. First of all, I wasn't the agent for New Penn at the time when Mr. Goulet filed the case. As everybody is aware William Carnes was the Business Agent for New Penn. I was the Business Agent for APA at the time of the closure, Mr. Goulet was on the seniority list there. Again, the way I want to respond to his point of order is to give you my brief and present my case, so I can demonstrate to you, the circumstances around this.

Schmidt: Mr. Chairman, I don't want to interrupt anybody, he said that I was presenting the case.

Soehl: Danny, I'm Chairman alright, you made a statement regarding to his brief, I didn't say (inaudible). I told him to stay to the point of order and respond to your point of order, so far he has been doing that.

Schmidt: Ok, that's fine.

Harrington: Mr. Goulet is also going to testify and so is Mr. Murphy. Let me go right to his exhibits and respond to each one. Exhibit 1 copy of the grievance which was forwarded to the Company dated April 18, 2003, let me just read Mr. Goulet grievance into the record so that we can be clear on exactly what his grievance is.

"Craig Goulet, Business Agent, William Carnes date of complaint is April 7, 2003, nature of grievance, seniority rights. In accordance with the National Master Freight Agreement Article 5, Subsection along with the New England Supplemental Freight Agreement, Article 43 Seniority including all of Article 43 Subsection. I am filing a grievance against New Penn Motor Express to include all lost time, back pay, seniority and contractual benefits under the agreement, from March 1, 2002, up to and continuing past March 31, 2003, based on the agreement between TNFNC and New Penn Motor Express as a result of the closure of APA Operations."

That's why Mr. Goulet's grievance was filed April 7th. Seven (7) days after the expiration of the agreement because he was never called. So that's what I guess Mr. Carnes instructed him to do, is file a grievance cause you weren't called within the year. He doesn't know, he is not working for the Company, he doesn't know anything, he was never contacted by New Penn. That's indisputable by the Company. Exhibit 2, copy of the pre-hearing information, shows the grievance as filed Southern New England, September and that should be the third, if you read the file its September 3rd, not September 30th.

Soehl: It's says the third.

Harrington: Right, he testified to the 30th, he states it on his brief. That grievance was filed on September 3rd, as I said I took the case over sometime in mid summer. Mr. Goulet expressed his frustration that his case has not moved forward, had no idea what happened what the case. I do know that the agreement really is silent on filing grievances. The APA and New Penn agreement. I also know since my experience with New Penn Motor Express, I have settled grievances with that Company, that are over a year old. I settled grievance from blizzards back in 2001 that were never docketed before the panel and the Company treated it as an active grievance, resolved the grievance. Charles Zaccaria, the Vice President of the Company, when you do business with New Penn you can't do anything unless Charlie Zaccaria gives you his blessing. And he's not around half time he's traveling to all these different terminals and whatever. So there's a precedent or practice there that grievances are held and held, and held until they are finally resolved or they can't come to an agreement or can't meet, and then they kick it (inaudible) the grievance procedures. I don't think that Mr. Schmidt will deny that. Exhibit 3, Article 46 of the Grievance Machinery. I take the case over in September, alright, so now its my ball game. I try to do the right thing, get this kid's grievance heard. I talk to John Murphy, that's why John is sitting here. John what should we do with this case, it's a closure case, there's really no language in the contract that deals with

this thing, so we are going to file under 43. File under 43 so that we can kick it off in the Southern New England Supplement. Postpone Company, Postpone Union, John talks to both Bob Schaeffer and Dan Virtue about this case. They tell us to kick it to the Eastern Region Joint Area because it is a Multi-Local closure agreement, it should be heard in front of you people today. We file the case, it gets send down, I don't know how misinformation, it was shown as being withdrawn, the case was never withdrawn so it went back on the agenda. So I can account for my handling of the case and the process of the steps along the way and everything we did until the time we took over was in conjunction with the contract and the advise and the consultation with both the labor side and the management side as to what to do with this case. So, you are dealing with the time frame obviously of when the grievance was filed and when it was originally docketed. My experience again with New Penn is they play loose with that all the time, (inaudible) its whatever suits them on that particular day. So we think that this guy, Mr. Schmidt testifies that he wasn't on the list, this guy was on the list, he won a case in arbitration, they reinstated him back to the (inaudible) that will be in my brief if I have an opportunity to present it, and show you the steps along the way as to where he was ignored and by-passed and did tell the Company where he wanted to go to work, we have that evidence. So John do you have anything to add to that?

John Murphy, Local 25, Business Agent: I think that what Mark said is true, I can tell you as the Co-Secretary of Southern New England, its my understanding was trying to be settled from the time that the grievance was filed in April 03, right up to when we put it on the agenda at the Southern New England area. We postponed it, I think there was still talks going on, there were some other reasons, we have some Unity Conference or something like that, whatever was going on. So we postponed it on both sides and consultation with the Eastern Region, Danny Virtue suggested that it should probably be heard down here at the Region. I talked to Bob Schaeffer, who's the Company Co-Secretary for Southern New England. We agreed to take the case out of New England and put it into the Eastern Region and that's where we are at.

Harrington: And to just follow up on that, they assigned 32 to it, the Committee, Dan and Schaeffer. Whatever they had a discussion about, whatever they did, they assigned 32, we didn't. So at this time we are going to let the grievant respond to why he didn't file the grievance. I don't want you to put your case on, I want you to limit it to why you filed the grievance a year or so after your understanding of the agreement.

Soehl: Addressing the point of order on the timeliness.

Craig Goulet, Grievant: Members of the Committee, the agreement that the New Penn people had with APA ran out March 31, 2002. I didn't get a phone call, I filed a grievance.

Harrington: 2003.

Soehl: 2003, right.

Goulet: Yes.

Soehl: Can I ask either side a question, cause unfortunately I don't have a copy of it. And I think that both sides would need a copy of the closure agreement so we know what's in it so that we can make a prudent decision.

Harrington: Its two separate documents there, one is the closure of APA and the other one is the responsibilities that New Penn had under the agreement.

Goulet: APA cease their operation March 1, 2002. They had an agreement, the men from that time to March 31, 2003. At the end of the agreement, I hadn't received a phone call, so I filed a grievance.

Harrington: That's our rebuttal to his point of order.

Soehl: Danny, you want to respond?

Schmidt: Yes, the Company is going to stand on their point of order. The grievant filed his grievance by his own testimony and his own handwriting on April 7, 2003. In his own grievance he says, "On March 1, 2003, 2002, he was violated that's what his says, so his grievance is untimely. You have to file within thirty (30) days, he didn't do that. This was no surprise to Local 25, we told them that the grievance was untimely from the beginning when we talked to Mr. Carnes. I handled this grievance cause they called me, our terminal. Now, why they didn't docket it until September, I don't know. It wasn't docketed as you can see until September 3, 2003, and was filed in April of 2003. And then all the docketing of Southern New England, there was never any discussion with the Company. But docketed down here, cause the Company found out it was on here as a 32 case. I said holy shit what's going on here, I thought we was hearing it in New England. But its down here under 32, by their own testimony it's not a 32 case.

Soehl: I think that their testimony said that they got advise from both of the Co-Secretaries.

Schmidt: While, I have their pre-hearing form and here it says Article 32. Co-Secretaries don't fill that out, they do.

Soehl: They said that the phone call that they had made on both sides, to Schaeffer and Virtue (inaudible) to bring it down here.

Schmidt: That's fine, whatever it is, that is. But you know what, there was never a conversation with Schmidt, let's make that understood. There was never a conversation with New Penn on timeliness. And yes, I will sit here and tell you that there are times we waived that issue, we both have that understanding. We never had that understanding in this case nor was I ever asked by 25 on this case to do that. And I want that understood cause if I was, I wouldn't be here raising timeliness. You got the case.

Soehl: Questions? Questions to the Union?

Harrington: I have a question to Mr. Schmidt. Doesn't our Co-Secretary usually advise you where the cases are going to go?

Schmidt: No.

Harrington: Is it my responsibility to tell you where the case is going to go?

Schmidt: Yeah, my understanding is this pre-hearing form has on here employer, union and company. And I should get a copy yeah.

Harrington: Did you get a copy?

Schmidt: And I didn't raise that, and I didn't get a copy, Mark. But you know what, I should get a copy its on here. It is your responsibility to tell me where the case is going. I'm not trying to be smart, but I never got a copy.

Harrington: Well, how did you get that copy?

Schmidt: I got it from TEA, I had to called them and have them fax it to me. But I didn't get into that.

Soehl: Just to clear me up a little bit, let me ask you a question? Unfortunate, nobody has this shut down agreement. Evidently, what it is, recall rights basically up to March 31, 2003, is that fair to say?

Goulet: Yes.

Harrington: Yes, sir.

Soehl: You never received a call from New Penn for recall so you filed a grievance on April 7, 2003.

Schmidt: That's not accurate. Are you asking them or me?

Soehl: I asked them.

Schmidt: You want to ask me, because that is not accurate.

Soehl: Well, I will ask you the same question.

Schmidt: That is not accurate. Under the agreements if they want to get into it.

Soehl: Well, we are going to get into it here. (inaudible).

Schmidt: Provided, we had the information he filed out an application and the Union gave us his name okay, then he would have been called. None of that happened.

Harrington: Mr. Chairman, I want to introduce rebuttal evidence to that then.

Soehl: You brought it up Danny, I think that he has a right to say it (inaudible)

Gary Quinn, Yellow Transportation: Executive Session.

Soehl: We're on a point of order and we're trying to find out what a shut down agreement cause we can't open a book to look at it.

Quinn: Executive Session.

DECISION: The Panel, in Executive Session, motion made, seconded and carried, the initial docketing of this case was not within thirty (30) days; therefore, the Company's point of order is upheld. Cost Union.

EASTERN REGION JOINT AREA COMMITTEE

Established in accordance with the terms and conditions of the National Master Freight Agreement and the NE Supplemental Agreement, entered into by and between the Local Union and carriers engaged in City Pickup and Delivery and/or Over-the-Road Freight Operations.

DOCKET NO. SC-21-04

IN THE MATTER OF THE DISPUTE BETWEEN

TEAMSTERS LOCAL NO. 25
BOSTON, MA

SUBMISSION FORM

and

NEW PENN MOTOR EXPRESS, INC.

We, the undersigned, parties to the National Master Freight Agreement and the NE Supplemental Agreement, hereby agree to submit the dispute to arbitration under the Rules of Procedure prescribed by the Eastern Region Joint Area Committee, by virtue of its authority, as set forth in Article 45 and 46 of the NE Supplemental Agreement, the following:

On behalf of Craig Goulet, Union alleges violation of Article 32, Section 1,2, September, 2003, grievant should have been called for work at New Penn per APA/New Penn agreement; requesting grievant be returned to proper seniority.

The undersigned further agree that a majority decision of the Eastern Region Joint Area Committee in the above dispute will be final, conclusive and binding with no appeal and, further, that neither party will attempt through any overt acts, to void the decision rendered.

The undersigned also agree that failure to comply with the decision of a majority of the Committee within ten (10) days of the date of the decision will result in the loss of all contract rights, privileges and benefits due them under Article 45 of the NE Supplemental Agreement.

Date July 28, 2004

Employer NEW PENN MOTOR EXPRESS, INC.

Local Union 25

Signed by D. W. Schmidt, V. P.

Signed by Mark A. Harrington, Bus. Agent

DECISION

The Panel, in executive session, motion made, seconded and carried, the initial docketing of this case was not within thirty (30) days; therefore, the Company's point of order is upheld. Cost Union.

R. L. SCHAEFFER
Employer Co-Secretary

RONALD M. JENKINS
Union Co-Secretary

JULY 28, 2004
Date

JULY 28, 2004
Date

D028

**NATIONAL MASTER
FREIGHT AGREEMENT AND
NEW ENGLAND
SUPPLEMENTAL AGREEMENT**



**For the Period:
April 1, 1998 through March 31, 2003**

EXHIBIT

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(e) In the event that an employee sustains an occupational illness or injury while on a run away from his/her home terminal, the Employer shall provide transportation by bus, train, plane, or automobile to his/her home terminal if and when directed by a doctor.

(f) The Employer agrees to provide any employee injured locally transportation at the time of injury from the job to the medical facility and return to the job, or to his/her home if required.

(g) In the event of a fatality arising in the course of employment while away from the home terminal, the Employer shall return the deceased to his/her home at the point of domicile.

(h) The Employer may publish reasonable safety rules and procedures and provide the Local Union with a copy. Failure to observe such reasonable rules and/or procedures shall subject the employee to disciplinary action in accordance with the disciplinary procedures in the applicable Supplemental Agreement. However, the time limitation relative to prior offenses shall be waived to permit consideration of the employee's entire record of failure to observe reasonable safety rules and/or procedures resulting in lost time personal injuries. This provision does not apply to vehicular accidents.

Section 2. Modified Work

(a) The Employer may establish a modified work program designed to provide temporary opportunity to those employees who are unable to perform their normal work assignments due to a disabling on-the-job injury. Recognizing that a transitional return-to-work program offering both physical and mental therapeutic benefits will accelerate the rehabilitative process of an injured employee, modified work programs are intended to enhance worker's compensation benefits and are not to be utilized as a method to take advantage of an employee who has sustained an industrial injury; nor are they intended to be a permanent replacement for regular employment.

(b) Implementation of a modified work program shall be at the Employer's option and shall be in strict compliance with applicable federal and state worker's compensation statutes. Acceptance of modified work shall be on a voluntary basis at the option of the injured employee. However, refusal to accept modified work by an employee, otherwise entitled to worker's compensation benefits,

may result in loss of participation of such benefits as specifically provided by the provisions of applicable federal or state worker's compensation statutes. Employees who accept modified work shall continue to be eligible to receive "temporary partial" worker's compensation benefits as well as all other entitlements as provided by applicable federal or state worker's compensation statutes.

(c) At facilities where the Employer has a modified work program in place, temporary modified assignments shall be offered in seniority order to those regular full time employees who are temporarily disabled due to a compensable worker's compensation injury and who have received a detailed medical release from the attending physician clearly setting forth the limitations under which the employee may perform such modified assignments. Once a modified work assignment is made and another person is injured, the second person must wait until a qualified work opening occurs, regardless of seniority. All modified work assignments must be made in strict compliance with the physical restrictions as outlined by the attending physician. All modified work program candidates must be released for eight (8) hours per day, five (5) days per week. The Employer at its option, may make a modified work offer of less than eight (8) hours per day where such work is expected to accelerate the rehabilitative process and the attending physician recommends that the employee works back to regular status or up to eight (8) hours per day by progressively increasing daily hours. A copy of any release for modified work must be given to the employee before the modified work assignment begins.

It is understood and agreed that those employees who, consistent with professional medical evaluations and opinion, may not be expected to receive an unrestricted medical release, or whose injury has been medically determined to be permanent and stationary, shall not be eligible to participate in a modified work program.

In the event of a dispute related to conflicting medical opinion, such dispute shall be resolved pursuant to established worker's compensation law and/or the method of resolving such matters as outlined in the applicable Supplemental Agreement. In the absence of a provision in the Supplemental Agreement, the following shall apply:

When there is a dispute between two (2) physicians concerning the release of an employee for modified work, such two (2) physicians shall immediately select a third (3rd) neutral physician within seven (7) days, whose opinion shall be final and binding on the Employer, the Union and the employee. The expense of the third (3rd) physician shall be equally divided between the Employer and the Union. Disputes concerning the selection of the neutral physician or back wages shall be subject to the grievance procedure.

For locations where the Employer intends to implement a modified work program or has a modified work program in place, the Local Union shall be provided with a copy of the current form(s) being used for employee evaluation for release and general job descriptions. This information shall be general in nature, not employee specific.

When a modified work assignment is made, the employee shall be provided with the hours and days he/she is scheduled to work as well as the nature of the work to be performed in writing. A copy of this notice shall also be submitted to the Local Union.

An employee who is placed in a modified work position may be subject to medical evaluation(s) by a physician selected by the Employer to determine if the modified work being performed is accelerating the rehabilitative process as anticipated by Section 2 above. In the event such medical evaluation(s) determine that the rehabilitative process is not being accelerated, the employer shall have the right to seek a second opinion from a physician of his choosing. Any disputes regarding conflicting medical claims shall be resolved in accordance with the provisions outlined above. The employee may be removed from the modified work program based upon final medical findings under this procedure. Employees so removed shall not have their workers' compensation benefits affected because of such removal. In the event the employee's temporary disability workers' compensation benefit is subject to reduction by virtue of an applicable Federal or State statute, the Employer shall pay the difference between the amount of the reduced temporary workers' compensation benefit to which the employee would be entitled.

(d) Modified work shall be restricted to the type of work that is not expected to result in a re-injury and which can be performed within the medical limitations set forth by the attending physician. In the event the employee, in his/her judgment, is physically unable

to perform the modified work assigned, he/she shall be considered as injured and shall be entitled to full temporary total workers' compensation benefits. In the event a third (3rd) party insurance carrier refuses to reinstate such employee to full temporary total disability benefits, the Employer shall be required to pay the difference between the amount of the benefit paid by such third (3rd) party insurer and full temporary disability benefits. Determination of physical capabilities shall be based on the attending physician's medical evaluation. Under no conditions will the injured employee be required to perform work at that location subject to the terms and conditions of the National Master Freight Agreement or its Area Supplemental Agreements. Prior to acceptance of modified work, the affected employee shall be furnished a written job description of the type of work to be performed.

(e) The modified workday and workweek shall be established by the Employer within the limitations set forth by the attending physician. However, the workday shall not exceed eight (8) hours, inclusive of coffee breaks where applicable and exclusive of a one-half (1/2) hour meal period and the workweek shall not exceed forty (40) hours, Monday through Friday, or Tuesday through Saturday, unless the nature of the modified work assignment requires a scheduled workweek to include Sunday. Whenever possible, the Employer will schedule modified work during daylight hours, Monday through Friday, or during the same general working hours and on the same workweek that the employee enjoyed before he/she became injured. In the case of an employee whose workdays and/or hours routinely varied, the Employer will schedule the employee based on the availability of the modified assignment being offered. Any alleged abuse of the assignment of workdays and work hours shall be subject to the grievance procedure.

(f) Modified work time shall be considered as time worked when necessary to satisfy vacation and sick leave eligibility requirements as set forth in the National Master Freight Agreement and/or its applicable Area Supplemental Agreements. In addition to earned vacation pay as set forth in the applicable Area Supplemental Agreements, employees accepting modified work shall receive prorated vacation pay for modified work performed based on the weekly average modified work pay. The only time modified work is used

Holiday pay shall first be paid in accordance with the provisions of the applicable Supplemental Agreement as it relates to on-the-job injuries. Once such contractual provisions have been satisfied, holidays will be paid at the modified work rate which is the modified work wage plus the temporary partial disability benefit.

Sick leave and funeral leave taken while an employee is performing modified work will be paid at the modified work rate, which is the modified work wage plus the temporary partial disability benefit. Unused sick leave will be paid at the applicable contract rate where the employee performed modified work and qualified for the sick leave during the contract year.

(g) The Employer shall continue to remit contributions to the appropriate health & welfare and pension trusts during the entire time period employees are performing modified work. The payment of health & welfare and pension contributions while the employee is on modified work is not included in the health & welfare and pension contributions required by the Supplement when an employee is off work on workers' compensation. Continuation of such contributions beyond the period of time specified in the Supplemental Agreement for on-the-job injury shall be required. Provisions of this Section shall not be utilized as a reason to disqualify or remove an employee from the modified work program.

(a) Employees accepting modified work shall receive temporary partial benefits as determined by each respective state workers' compensation law, plus a modified work wage when added to such temporary partial benefit, shall equal not less than eighty-five percent (85%) of forty (40) hours' pay he/she would otherwise be entitled to under the provisions of the applicable Area Supplemental Agreement for the first six (6) months from the date the modified work assignment commences. After this initial six (6) - month period, the percentage shall increase to ninety percent (90%) for the duration of each individual modified work assignment. The Employer shall not refuse to assign modified work to employees based solely on such employees reaching the ninety percent (90%) wage level. Such refusal shall be considered an abuse of the program and shall be subject to the grievance procedure. Modified work assignments

beginning on and within a one-week shall be paid on a pro-rata basis, and (1) day equals one-fifth (1/5th).

Where an employee participates in a wage reduction-job security plan as provided in Article 6, Section 2, the eighty-five percent (85%) and ninety percent (90%) as specified herein shall be based on the wage provisions of the applicable Supplemental Agreement and not the wage reduction-job security plan; provided, however, no such employee shall receive a modified work wage in excess of that provided in the applicable wage reduction-job security plan.

(i) Employees accepting modified work shall not be subject to disciplinary action, provisions of the Supplemental Agreements unless such violation involves an offense for which an prior warning notice is required under the applicable Supplemental Agreement (Cardinal Stat). Additionally, the provisions of Article 45, Section 2(a), shall apply.

(j) Alleged abuses of the modified work program by the Employer and any factual grievance or request for interpretation concerning this Article shall be submitted directly to the Regional Joint Area Committee. Proven abuses may result in a determination by the National Grievance Committee that would withdraw the benefits of this Article from that Employer, in whole or in part, in which case affected employees shall immediately revert to full workers' compensation benefits.

Section 3. Americans with Disabilities Act

The Union and the Employer recognize their obligations under the Americans with Disabilities Act. It is agreed that the Employer shall determine whether an employee is a qualified individual with a disability under the ADA and, if so, what reasonable accommodations, if any, should be provided. In the event that the Employer determines that a reasonable accommodation is necessary, the Employer shall notify the Local Union before providing the reasonable accommodation to a qualified bargaining unit employee to ensure that the reasonable accommodation selected by the Employer does not impact another employee's seniority or other contract rights.

Any dispute over whether the Employer complied with its duty to notify the Local Union before implementing a proposed reasonable accommodation or whether providing the reasonable accommoda-

Article 14, Section 3
 violation violates any employee's rights under any other provision of the NMFPA shall be subject to the grievance procedure. Disputes over whether the Employer has complied with its legal requirements under the ADA, including the ADA requirements to provide a reasonable accommodation, however, shall not be subject to the grievance procedure.

ARTICLE 15. MILITARY CLAUSE

Employees in service in the uniformed services of the United States, as defined by the provisions of the Uniform Services Employment and Reemployment Rights Act (USERRA), Title 38, U.S. Code Chapter 43, shall be granted all rights and privileges provided by USERRA and/or other applicable state and federal laws. This shall include continuation of health coverage to the extent required by USERRA, and continuation of pension contributions for the employee's period of service as provided by USERRA. Employee shall be subject to all obligations contained in USERRA which must be satisfied for the employees to be covered by the statute.

In addition to any contribution required under USERRA, the Employer shall continue to pay health & welfare contributions for regular active employees involuntarily called to active duty status from the military reserves or the National Guard for military-related service, excluding civil domestic disturbances or emergencies. Such contributions shall only be paid for a maximum period of twelve (12) months.

ARTICLE 16. EQUIPMENT, SAFETY AND HEALTH

Preamble

It is agreed that all parties covered by this Agreement shall comply with all applicable federal, state and local regulations pertaining to worker safety and health and subjects covered by Article 15. Failure to do so shall be subject to the grievance procedure, in accordance with Articles 7 and 8 of the NMFPA, and any other remedies.

Section 1. Safe Equipment

The Employer shall not require employees to take out on the streets or highways any vehicle that is not in a safe operating condition, including, but not limited to, equipment which is acknowledged as overweight or not equipped with the safety appliances proscribed by law. It shall not be a violation of this Agreement or basis for discipline where employees refuse to operate such equipment unless such refusal is unjustified.

It shall also not be a violation of this Agreement or considered an unjustified refusal where employees refuse to operate a vehicle when such operation constitutes a violation of any federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself/herself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this provision, the employee must have sought from the Employer, and have been unable to obtain, correction of the unsafe condition.

All equipment which is refused because it is not mechanically sound or properly equipped shall be appropriately tagged so that it cannot be used by other employees until the maintenance department has adjusted the complaint. After such equipment is repaired, the Employer shall place on such equipment an "OK" in a conspicuous place so the employee can see the same.

Section 2. Dangerous Conditions

Under no circumstances will an employee be required or assigned to engage in any activity involving dangerous conditions of work, or danger to person or property or in violation of any applicable statute, court order, or in violation of a government regulation relating to safety of person or equipment.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRAIG GOULET

Plaintiff,

v.

NEW PENN MOTOR EXPRESS

Defendant

and

TEAMSTERS LOCAL 25

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

Defendant,

**CIVIL ACTION
NO. 04-12577-JLT**

AFFIDAVIT OF BURTON TREBOUR

1. In 2001-2002, I was the Vice President of Labor and Administration for A.P.A. Transport, Inc.
2. I am familiar with the grievance filed by Teamsters Local 25 on behalf of Craig Goulet in March 1987, and was heard by the Southern New England Joint Area Committee on October 21, 2001.
3. As the Vice President of Labor and Administration for A.P.A. in October 2001, I represented A.P.A. at the Southern New England Joint Area Committee hearing, and argued that Mr. Goulet's termination should not be reversed.
4. On October 16, 2001, the Southern New England Joint Area Committee made the following ruling concerning the grievance of Mr. Goulet:
5. A.P.A interpreted that decision to mean that it was not required to return Mr. Goulet to the active work roster until and unless he produced documentation concerning his medical clearance to return to unrestricted duties with A.P.A.
6. Two seniority lists were ordinarily generated for each A.P.A. facility: one generated by the corporate office, and the other generated at each individual terminal.
7. The corporate seniority list contained only the employee's name and date of seniority, and such lists were not necessarily available to employees at the terminal.

8. The seniority list produced by the terminal would list only the employees with active seniority, meaning that they were available to for day-to-day work, and would be posted for the employees perusal.
9. The corporate office returned Mr. Goulet's name to the corporate seniority list because it anticipated that Mr. Goulet would be returning to work, shortly following the decision of the Southern New England Joint Area Committee in October 2001.
10. The corporate office updated the corporate seniority list in November 2001 following the decision of the Southern New England Joint Area Committee's decision concerning the grievance of Mr. Goulet.
11. A.P.A.'s inclusion of Mr. Goulet's name on the November 2001 corporate seniority list was not due to any decision by A.P.A. to waive the requirements set forth by the Southern New England Joint Area Committee concerning Mr. Goulet's re-employment.
12. A.P.A. never waived the requirements that Mr. Goulet provide medical documentation of his ability to return to unrestricted duties and serve a ten (10) days suspension prior to being returned to the seniority list for the Canton, Massachusetts terminal.
13. If A.P.A. had been aware that Mr. Goulet was not intending to provide medical documentation of his ability to return to duties immediately following the decision of the Southern New England Joint Area Committee, it would not have reinserted his name in the November 2001 corporate seniority list for A.P.A.'s Canton, Massachusetts facility.
14. Mr. Goulet never presented any documentation to A.P.A. concerning his ability to return to unrestricted duties.
15. Mr. Goulet never served a ten (10) day suspension.
16. I do not recall whether the November 2001 corporate seniority list for A.P.A.'s Canton, Massachusetts facility was sent to the Union.
17. It is possible that the A.P.A. facility in Canton, Massachusetts did not receive the November 2001 seniority list prior to its closing in February 2002.
18. When New Penn Motor Express requested terminal seniority lists in order to create its call lists, it asked for seniority lists from the corporate office, and thus received the corporate seniority list.

Signed under the pains and penalties of perjury this ____ day of January 2006

Burton Trebour

NOTE TO PROCESSING CENTER
FURTHER ACTION NECESSARY

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Social Security Administration
OFFICE OF HEARINGS AND APPEALS

DECISION

IN THE CASE OF

CLAIM FOR

Craig S. Goulet
(Claimant)

Period of Disability,
Disability Insurance Benefits, and
Supplemental Security Income

(Wage Earner)

018-54-6027
(Social Security Number)

The prior decision issued by the undersigned dated May 16, 1995 is being re-opened due to new and material evidence.

PROCEDURAL HISTORY

This case is before the Administrative Law Judge on a request for hearing filed by the claimant, who is dissatisfied with the previous determinations finding that he is not disabled.

The undersigned Administrative Law Judge has carefully reviewed all the evidence of record and has concluded that the claimant does in fact meet the Social Security definition of disability and so is issuing a favorable decision on the record and without a formal oral hearing having been held.

The claimant previously filed Title II and Title XVI applications on April 6, 1992. These applications were initially denied on June 2, 1992. He filed the current applications on April 8, 1994. These application were denied initially on May 5, 1994, and again denied on reconsideration on July 19, 1994. Claimant disagreed with these determinations and requested a hearing on October 25, 1994.

New and material evidence constitutes good cause for reopening the claimant's prior applications pursuant to 20 CFR 416.1488-416.1489 and 404.988-404.989. Benefits will be payable based on the claimant's Title II and Title XVI applications filed on April 6, 1992.



Craig S. Goulet
018-54-6027

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ISSUES

The issues in this case are whether the claimant is under a disability as defined by the Social Security Act and if so, when his disability commenced, the duration of the disability, and whether the insured status requirements of the Act are met for the purpose of entitlement to a period of disability and disability insurance benefits.

EVALUATION OF THE EVIDENCE

After a thorough evaluation of the entire record, it is concluded that the claimant has been disabled since March 11, 1987, and met the insured status requirements of the Social Security Act on that date and thereafter, through June 30, 1993. The claimant was 26 years old on the date his disability began. The claimant has a high school education. The claimant has not engaged in any substantial gainful activity since the disability onset date.

The claimant has the following impairments which are considered to be "severe" under the Social Security Act and Regulations: dysthymia, personality disorder, low back pain, status post rotator cuff tear, right knee pain, and alcohol dependence.

The medical evidence reveals that the claimant sustained a work related injury in 1987 at which time he injured his left arm, shoulder, right leg and knee. He has been treated by Dr. Matzilevich, Dr. Courville and Dr. Garion but has continued to experience pain. Claimant has also been diagnosed a shaving dysthymia and a personality disorder.

The claimant's description of his limitations is consistent with the record when considered in its entirety. The claimant cannot perform his past relevant work and does not have transferable skills to perform other work within his residual functional capacity.

Given the claimant's residual functional capacity, and the vocational factors of his age, education and past relevant work experience, there are no jobs existing in significant numbers that the claimant is capable of performing. The claimant is under a disability as defined by the Social Security Act and Regulations.

Craig S. Goulet
018-54-6027

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FINDINGS

After consideration of the entire record, the Administrative Law Judge makes the following findings:

1. The claimant met the insured status requirements of the Act on March 11, 1987. The claimant has not performed any substantial gainful activity since March 11, 1987.
2. The claimant's impairments which are considered to be "severe" under the Social Security Act are dysthymia, personality disorder, low back pain, status post rotator cuff tear, right knee pain, and alcohol dependence.
3. The claimant's impairments do not meet or equal in severity the appropriate medical findings contained in 20 CFR Part 404, Appendix 1 to Subpart P (Listing of Impairments).
4. The claimant's allegations are found to be credible.
5. The claimant is unable to perform his past relevant work.
6. The claimant was 26 years old on the date disability began, which is defined as a younger individual. The claimant has a high school education.
7. The claimant does not have transferable skills to perform other work within his physical and mental residual functional capacity.
8. Based upon the claimant's residual functional capacity, and vocational factors, there are no jobs existing in significant numbers which he can perform. This finding is based upon Section 201.00(h) of the Medical-Vocational Guidelines, 20 CFR Part 404, Appendix 2 to Subpart P.
9. The claimant has been under a disability as defined by the Social Security Act and Regulations since March 11, 1987.
10. Alcoholism is not a contributing factor material to the finding of disability.

DECISION


Based on the Title II application filed on April 6, 1992, the claimant is entitled to a period of disability commencing March 11, 1987, and to disability insurance benefits under sections 216(i) and 223 of the Social Security Act, respectively, and the claimant's disability has continued at least through the date of this decision.

Craig S. Goulet
018-54-6027

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It is the further decision of the Administrative Law Judge that based on the Title XVI application filed on April 6, 1992, the claimant has been disabled since March 11, 1987, under section 1614(a)(3)(A) of the Social Security Act, and the claimant's disability has continued through the date of this decision.

The Social Security Administration must also determine whether the claimant meets the income and resources and other eligibility requirements for supplemental security income payments, and if the claimant is eligible, the amount and the month(s) for which the claimant will receive payment. The claimant will receive a notice from another office of the Social Security Administration when that office makes those determinations.



John T. Sweeney
Administrative Law Judge

AUG 21 1995

Date

Boston
BRANCH OFFICE LOCATION
Service Copy

MASSACHUSETTS REHABILITATION COMMISSION
DISABILITY DETERMINATION SERVICES

TRANSCRIPTION OF TELERECORDED MESSAGE

REPORTED BY:
STEPHAN SIMONIAN, M.D.
215 WEST STREET
2ND FLOOR
PO BOX 298
MILFORD MA 01752-2277

DATE: 05-18-03/08:32
RE : GOULET, CRAIG
SSN : 018-54-6027
D.E.:

CE PLACEMENT
MAY 20 2003
Received

CONSULTATIVE EXAMINATION REPORT

DATE/PLACE: MAY 2, 2003 / MILFORD, MASSACHUSETTS

This 43-year-old man initially came for psychiatric evaluation for Social Security and Disability Benefits. The patient states that he has suffered from an industrial accident in 1987 and was fired from his job, and he had surgery on his shoulder for torn ligaments and also his knee. He was on Workers' Compensation since then. He says that he was fired from his job after the accident. He says that after the accident, he was accused of being negligent instead of compensating him for his injuries. He says that he also has been on disability because of the accident and because of the depression and alcohol abuse and dependence. He states that depression came as a consequence of the accident, and prior to the accident, he was working and doing fine. He describes that he has seen several doctors as well as a neurologist, who was giving him his medications and caring for his problem, but one year ago, the neurologist died. Since then, he has not been seeing any neurologist or psychiatrist, but the last one year, he has seen a chiropractor. Also, he says that he has been seeing an orthopedist, which the orthopedist retired about a year ago as well. He also has seen, a few times, a psychiatrist by the name of Dr. Romero, a few years ago for depression. He says that presently he is taking anti-inflammatory medication and still occasionally drinks at times but has never had any problem because of drinking, such as a problem with the law or driving under the influence, etc. He says that he is on partial disability, but the patient is somewhat angry and upset because he states that the office that was dealing with his disability lost part of his file, and he has written to the state senator, and the state senator was able to move the case forward, but still there is no decision, and he states that he is upset and depressed about it. He also states

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EXHIBIT

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that recently his father has been sick and has developed lymphoma and that is also depressing for him. The patient states that he now spends most of the time at home, does some chores around home, and helps his wife. His wife is working, and he takes care, at times, at home with his children. He takes the children to baseball games and sometimes watches them playing, but he says that he is not active and has not been able to work.

FAMILY HISTORY:

The patient is married for 22 years and has two kids. He has one twin brother and two older brothers and one younger sister. His parents are alive. The patient denies any psychiatric history in the family. His sister had a substance abuse problem and alcohol problem. The patient himself denies any abuse of substances, except alcohol.

PAST HISTORY:

As described in History of Present Illness.

MENTAL STATUS EVALUATION:

Mental status evaluation reveals a alert and oriented times three, 43-year-old man with no major disorder of speech, thought process is coherent, affect is full range. When the patient was talking about his father, he was somewhat sad and on the verge of crying and tears. The patient denies any past psychiatric hospitalization. He presently lives in Hudson and drives his car. He drove himself to my office. He states that he works around home. He makes his daughters ready for school. He goes to softball games and returns his daughter. He does his Activities of Daily Living. He denies any hallucinations. There was no active hallucination. There was no delusional thinking. There was no suicidal ideation. He was feeling angry towards the judge who has not come to a decision and not done the job. There is no homicidal ideation. He states that he is angry, but he wrote to the senator and expressed his anger properly. Intelligence and memory was judged average and within normal limits.

DIAGNOSTIC IMPRESSION:

Axis I: A. Adjustment disorder with mixed emotional features.
B. Rule out dysthymic disorder.
C. Alcohol abuse, episodic.

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Axis II: Deferred.

Axis III: Status post left shoulder injury and operation and right knee arthritis.

Axis IV: Moderate.

Axis V: GAF: 55 to 60 percent.

DIAGNOSTIC IMPRESSION AND DISCUSSION:

This 43-year-old man has a past history of injury after which he was treated medically and has not been able to work because of the pain and medical reasons. The patient states that, however, this has made him angry and depressed and the fact that the decision for his disability has been prolonged. He presently is not taking any psychiatric medication and has not been under psychiatric follow up but has seen two times a psychiatrist in the past for depressive symptoms. He does not manifest any major disorder of thought process or thought content but manifests some degree of anger and sadness about his medical and work condition. Therefore, considering the symptoms, diagnosis of adjustment disorder with mixed emotional features seems appropriate for Axis I diagnostic category, but also dysthymic disorder cannot be ruled out in this patient. Also, diagnosis of alcohol abuse, episodic, is appropriate for Axis I diagnosis in this patient. On Axis II, diagnosis was deferred. On Axis III, the patient gives history of left shoulder injury and status post operation and right knee injury and arthritis; therefore, these two diagnostic entities will be appropriate for Axis III diagnostic category. On Axis IV, stressors were judged moderate. On Axis V, considering the fact that the patient is able to do his Activities of Daily Living and is helpful around the home with his children, and he drives, and he drove himself to my office, and his hygiene is good, and he is able to do some socialization, his functional ability was judged to be 60 percent. This patient is able to take care of his financial affairs.

STEPHAN SIMONIAN, M.D.

SS/524

MedScripts/4672A/113

THIS TRANSCRIPTION WAS MADE FROM A RECORDING OF THE VOICE OF
STEPHAN SIMONIAN, M.D. on 05-18-03.
A COPY OF THIS REPORT HAS BEEN FORWARDED TO THE AUTHOR
FOR REVIEW AND SIGNATURE ON 05-18-03.